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A CRITICAL EDITION OF
NICHOLAS' NOTES
ON THE
PARLIAMENT of 1627-8.

A thesis submitted to the Faculty of the
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of
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by

Louise M. Sumner

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21 MARTII, 1627.

2 Resiants and freemen of Coventry had voices to be Bur-
gesses; One Purefy and Greene, noe freemen, had more voices.
The Sherif desires...¹in the Case of Sir Geo. Hastings, noe
Resiant; Sir Thos. Beaumont, a Resiant, being returned for
Leceistersheire.

²
MR. TAYLOR³: saith he thinkes presedent doth leade that
other case; for the lawe that saith they should be res-
iants is but a direccion.

1. Wm. Purefey and Richard Greene were held to be justly
elected for Coventry City. Members of Parliament, I. 478.
2. The case cited is that of Sir George Hastings and Sir
Thomas Beaumont in the Parliament of 1620-1621. Sir Thos.
Beaumont was a resident in the county of Leicester, and
on that account, though he received a small vote, was re-
turned by the sheriff over Sir Geo. Hastings who was not
resident in the county but had a larger vote. The Parli-
ament decided that the possession of a free-hold was
all that was necessary to comply with the conditions of
the statute (1.H.V.). Sir Geo. Hastings was in possession
of a free-hold in Leicestershire and, as he had a larger
vote, his election was declared valid.

See Proceedings and Debates, 1620-1621. I. 21-4.

3. Richard Taylor, Esq., M.P. for Bedford Borough, Bedford.
Members of Parliament, I. 474.

JUL 24 1913 B. 70

MR.SOLLICITOR: saith that he thinkes it should be judg-
¹
 ed according to usage and the greater number (thoughe for
 strangers) electing, that ought to over-rule the lesser.

MR.SHERFEILD: that this being a question of great con-
²
 sequence Concerning many members of this house, the debate of
 this may be deferred till too morrow.

ORDERED that the further debate shall be deferred till
 too morrow morning, 9 O'clock.
³

Sir ED(WARD) COKE: a prison is noe more but a place to
⁴
 detayne a man to bring him to answeare, not to keepe noe
 man...not to heare his answeare. That... (blurred).
⁵

1. Sir Richard Shilton, Solicitor General. M.P. for Bridge-
 north Borough, Salop. Members of Parliament, I.477.

2. Henry Sherfeild, Esq., Recorder and M.P. for Salisbury
 City, Wilts. ibid., I.478.

3. From the omissions it seems that these notes were has-
 tily jotted down. As to the double returns from Coventry
 City, see C.J., I.874, 875, 880, and 881.

4. Sir Edward Coke, M.P. for Buoks. Members of Parliament,
 I.474.

5. This speech introduces a bill entitled - " An Act a-
 gainst long and unjust detaining in prison." C.J., I.874.
 Court and Times of Charles I., I.332-3. The only other
 record of this speech which I can find is in - Debates
 and Proceedings in the House of Commons, 1627-1628. (This

24 MARTII, 1627.

A Comittee to draw a Bill for regulating the power of

is an unpublished manuscript, bought by Thomas Wallcut at the sale of the library of D. Byles, Nov. 1790; and presented to the Massachusetts Historical Society, in April, 1791. It will be referred to hereafter as Mass. MS.) There the speech is as follows: *Dum tempus habemus bonum operium. Liberty is precious; there is an habeas Corpus, there is a homine Replegiendo, and de odio et atia, by which if one be imprisoned by odio he is to be delivered. Stamford. 77 b. saith that that writt is gone but 42 Ed. III., there is a Lawe made that all lawes made against Magna Charta are void. And soe obstant 28 Ed. III., the writt of odio is on foot and stands in force.*

"We have Lawes that none be longe in prison. If a gaoler keep men in gaole. If he sue not a Comission of gaol delivery he forfeits his office. But shall a man lie in prison and never be called to Answer? Shall a man have remedy for his Chattells and not for his liberty? To prevent this I have drawne a bill," which was read. An Act against Longe and unjust detaineing in prison: "Whereas none ought to be longe detained in prison and be it therefore enacted that noe person Comitted to prison by any comaund whatsoever shall be longe kept in prison. And if there be noe proceeding for attainer within 2 monthes,

deputy lieutenants concerning the manner of levying of
soldyers, horse, armes, and moneyes and all things apperteyn-
ing to it by lawe. To sitt (in the) Exchequer Chamber, too
morrow att 2 o'clock in the afternoone.

Secretarie Coke's report concerning the Fast: That the
King granted our ¹petition and would send word for the tyme
this morning to both houses.

²
The Case of eleccion for Coventry not being truly put
Friday last, is on report by the Comittee of Priviledges.

An Act for to avoide suspicion of misdemeanor in any
member of the Comons house of Parliament.

they findinge sufficient suerties shall be bayled till
they be attainted or delivered and for want of such deliv-
ery that they be acquitted and pardoned and cleerly dis-
charged and delivered of from all imprisonments. And if any
person be Comitted shall not be within three months be at-
tainted, discharged, or come to his tryall he shall be bayled,
and for want of such baylement he shall be delivered and
pardoned. Provided that all persons soe imprisoned may
take any other Course for their delivery." p.11.

1. Sir John Cooke, Principal Secretary of State. M.P. for
Cambridge University. Members of Parliament, I. 474.

2. The two Houses had joined in a petition for a fast. This
petition may be found in L.J., III. 693.

Report of Secretarie Coke concerning the fast, that
(the) King's answer is that (he) is well pleased with the
petition: that our Fast shall be Saturday one sennight,
and the generall fast to be 21. Aprillis.

Sir WM. BOULSTRED: would have preachers, Mr. Dike of²
Epping in Essex, Mr. Herris of Hanwell in Oxon.¹

SIR ROB(ERT) PHELLIPPS: for Dr. Balcanquall.⁴

All these 3 preachers are to be sent to.³

SIR ROB(ERT) PHELLIPPS:...⁵

26 MARTII,⁶

Att a Comitte of ...

-
1. Sir William Bulstrode, M.P. for Rutland. Members of Parliament, I.477.
 2. Mr. Jeremy Dyke, Vicar of Epping. Court & Times, I.33.
 3. Sir Robert Phillipps, M.P. for Somerset. Members of Parliament, I.477.
 4. Dr. Walter Balcanqual, Dean of Rochester. Court & Times, I.334. Cal. St. P. (Dom.) 1627-8, p.19.
 5. Probably the speech omitted here is the one recorded in C.J., I.875. "Sir Ro. Phillipps moveth, there may be one Englishman, and one Scottishman." Mr. Dyke and Dr. Balcanqual were accordingly chosen.
 6. Under the date "26 Martii" Nicholas has lumped notes of debates on supply and grievances which began on the 24 th and were continued at intervals through the rest of

Sir JOHN COOKE delivered his Majestie's propositions which he first declareth to be nothing for his Majestie's person but for the Comon good.

1. to furnishe 30 more shipps for Narrow Seas.
2.10 for Balticke Sea and Elbe.
3.10 for relief of Rochell.
4. to levy, arme, victuall an Army of 1,000 horse and 10,000 foote.
5. to pay and Supply 6,000 men for assistance of the King of Denmarke.
6. Supply the store of Ordnance.
7. Supply the store of Navy.
8. to build 20 shipps yearely.
9. to repair forts.
10. arreres^{of} Ordnance.
11. arreres of Victuallers.
12. arreres Navy.
13. arreres of freight. ₁

the month. The King's propositions were delivered on the 25th and the debate which follows them in Nicholas, at least as far as the resolution to defer debate on the propositions for a few days, probably occurred at that time. See Old Parl. Hist., VII. 386. C.J., I. 875. Cal. St. P. (Dom.) 1628-9, p. 41.

Rushworth alone states that the propositions were read again on the 26th, and debate thereon deferred to another day. (p. 513)

1. Freight due to merchant vessels employed by the King.

14. Magazin of victualls for land and Sea service.

MR. WAND^{ES}FORD: moveth there may be Coppies of the
 1
 propositions.

SECRETARIE COOKE: that every man keepe the Coppies se-
 cret.

SIR ED (WARD) COKE: that some of the propositions are
 soe generall they know what they are as the arreres of the
 office of the Ordnance etc.

SECRETARIE COOKE: that to know these particuar arreres
 he moves that the ordinary officers may be ordered to bring
 them in.

SIR RO (BERT) PHELIPPS: that they may looke alsoe in-
 to the Case of the necessities how the shipps are soe de-
 cayed and the arreres are spent.

Mocion to appoint a tyme when these things shall be
 considered.

SIR JO (HN) STRANGWISHE: would have it free to send
 2
 coppies into the Country.

Resolved by a silent report, after a few dayes to fall
 into further debate of those propositions; in the meane
 tyme Coppies to be delivered.

1. Christopher Wandesford, Esq., M.P. for Thirsk Borough,
 York. Members of Parliament, I. 479.

2. Sir John Strangwais, M.P. for Dorset. ibid. I. 475.

SIR WALT¹(ER) EARLE²: that confinement into farre Countries, though within the kingdome, is noe better then an exilement.

SIR R(OBERT) PHELLIPPS): would have it declared that confinement is against the undoubted right of the Subject, and for this would have it confirmed and established by a law; and it (is) to be accompanied with a Remonstrance or declaracion.

Sir ED(WARD) COKE: that in Queen Elizabeth's tyme it was resolved that a free Subject ought not, noe nor a Recusant, not (to be) convicted without a Statute.

The further Resolucions.

Resolved uppon the question, that it is the undoubted right of the Subject not to be confined, shall be deferred till the debate of imprisonment and designement on forraine imployment, be argued and resolved.

Debate concerning the Oath offered by the late Commissioners³ of the Loane.

1. I have not been able to find these speeches elsewhere. They are evidently part of proceedings in committee, and may ^{were} have been spoken on the ~~25th~~, 26th, or ~~27th~~ of March.

2. Sir Walter Earle, M.P. for Dorset. Members of Parliament, I. 475.

3. This debate on the forced loan and the imprisonment of those who refused it, extending through the order that the commission, instructions, and oath for the loan be brought

SIR R(OBERT) PH(ELLIPPS): that th~~is~~ Oath was like the Spanishe Inquisicion, and the power given to the Comissioners to binde every man to appeare before the Lords. Moveth that the Comission for the loanes may be brought into the house.

SIR E(DWARD) COKE: that noe Comission can be granted (but) by warrant of lawe, noe more then a writt; and all Comissions are to be in the Register or in the Chancery (as) antiently and that noe Comission can be granted but where there is a lawe for it : Concludes, noe Comissions can be granted but by warrant of lawe or where they have bene tyme out of minde.

3 questions -

1. all that is the right of the Subject in the propriety of their goods.
2. the partes of it.

into the House, may have taken place on the 25th. A debate on imprisonment but containing none of these same speeches save part of the one attributed to Sir N. Riche, is dated the 25th in Old Parl. Hist., VII.375-386. Forster (Life of Elliot) simply states that these debates lasted through the 25th, 27th, and 29th. Mass.MS. has thirteen pages missing at this point; the proceedings of the 25th are commenced, but it is impossible to know the date given to the next proceedings, whether the 25th, 26th, or 27th.

3. wherein it hath bene infringed.

SIR RO(BERT) PH(ILLIPS): that foraine and home writers agree that the propriety of the Subject is that his goods ought not to be taken from him (but) by his voluntary Consent, without consent in Parliament.

SIR NAT(HANIEL) RICHE: ¹that King James said 12. concerning impositions, that he heard that some of this house should say that some Kings if impositions were soe generally laid, would invade the libertie and right of the Subjects, and that who should persuade (him) to invade it was a traitor. That if the Subject hath noe propriety then there is noe Mercy and honour and then noe Justice, for to Justice is the distribution of Mercy and honour, if noe Justice, noe throne; for Solomon saith that Justice establisheth the King's throwne.

2

1. Sir Nathaniel Riche, M.P. for Harwich Borough, Essex. Members of Parliament, I. 475.

2. This quotation from Solomon is attributed to Mr. Creskeld of Lincoln's Inn in a speech on the 25th in Old Parl. Hist., VII. 377. The speech is identical with one in Mass. MS. p. 37, attributed to a Mr. Creswell; the date in this case has been lost. Rushworth also calls the speaker, Creswell. Ephem. Parl. calls him, Creskeld. There is noe person of either name in this Parliament; but there is a Richard Gresheld, Esq., ^{Gresham Borough,} M.P. for Worcester. Members of Parliament, I. 479.

MR.HACKWELL:¹would not have us seeke to so vindicatt
the right and propriety of the Subject,for to question or
expound it may make it lesse cleere.

RESOLVED on the question,that by unlimitedt and by the
undoubted right,the Subject hath such a propriety in their
goods and estates that they are not to be taken from them,
nor legally any levyes or taxes to be sett uppon them other
then in parliament.

ORDERED,the Comission and instruccions and oath for
the last loane,²shall be brought in too morrow by the Clerk
Comons.

...1.Concerning the universallity of the persons. If
- 3

1. William Hackwell,Esq.,M.P. for Amersham Borough,Bucks.
Members of Parliament,I.474.

2. Commission and Instructions for Middlesex. Cal.St.P.
(Dom.),1625-6,p.436. Rushworth (I.418-9) gives the instruc-
tions to the Commissioners.He also describes the treatment
of those who refused payment.(p.422.)

3. This is a very confused and fragmentary report of a
speech by Sir Ed.Coke,delivered on the 29th of March in
the Grand Committee.Mass.MS.,49-50. It reads as follows:
"This is a Questio iuris;they that have spoken have spoken
pithily and learnedly and that with¹all reverence to his
Majestie and the Counsell.I said before I gave them a pre-
paritive that remooved the humours humoris moti et non re-

the King can comitt and imprison by absolute power without

moti corpus destruunt they that argued for the King would not Answer what was said, they sleighted it as nothing to the purpose. There is a figure called simulatio that (God forgive mee) I used when I was in their places; that that wee cannot Answer wee scorne and slight. I will leave this question as naked as Esop's Crowne. Duo sunt instrumenta ad eos res confirmandas et confutandas ratio et autoritas, they that ^espake here must **beate** uppon reason.

"First I shall produce therefore some reasons, 1. from the universallitie of the persons whom this concernes; Camb.

236: It is a maxime that the Common lawe hath soe admingled the king's prerogative, that in noe cause it cann prejudice the inheritance of the subject, and how doth this absolute Authoritie that is pretended concerne, not only the Cominaltie, but the lords and all spirituall persons and all officers, for if hee bee comitted and hee bee called on for his office, his office is forfeited, it concernes all men and women and therefore it deserves to bee spoken of in parliament, this may dissolve this house, for wee may bee all thus comitted. 31 H.6, rot.27, rot.parliament, noe member of the parliament canne bee arrested, but for felonie, treason, or the peace, and all here may bee comitted and then where is the parliament? Sure the lords will be glad of this, it concernes them as well us. 2. The second reason is from the

shewing Cause, it concerns the lords spirituall and Temporall,

indefinitenes of the time non definitur in lege had the lawe given that prerogative it would have set some time to it, the marke what to would follow. I shall have an estate of inheritance for life or for yeares in my land or a property in goods and I shall bee a tenant at will for my libertie and I shall have a propertie in a goose and not libertie in my person per-
spicua vena non sunt probandia."----

"I would have another speake truth; Wray was wont to say letters of great men were letters of Justice, when I was a student I wondered what hee meant; his meaning was that letters in that kind doe lett Justice or further it; nothing fell out in my place of Justice but I kept a note of it. Beckwith was comitted and noe cause shewed, wee meant to baile him and then came the lords' letter that wee should baile him; (God bee thanked for it) and the letter was kept and my note saith soe. Sir John Brocket was comitted and noe cause shewed and perhaps the Judges would have delivered him and then came a letter from the lords (God bee thanked), the Counsell table must bee maintained, or the Comonwealth will perish... There was a mandat Re and the partie was remanded, I denye that I ever was ^{at} any disputation in my place, of any Judgement that was given, I confess freely when I read Stamford, only perhapp, I was of his opinion but when I saw such a companie of Authorities against it God forbid that

all officers who if they cannot be att their office. If this

I should follow my guide, when my guide was wronge. 12 H. 7,
 Cherrie's Case, hee was comitted tam pro felon quam pro man-
 dat Domini Regis, the Attorney seeing the Court would deliver
 him, retraxit mandatum suum. If the king had such a prerogative,
 for which there was onely an opinion of one Judge in Queene
 Marie's time shall that waigh downe soe many Acts of parlia-
 ment and presidents as are on our side? The remittitur quos-
 que, what means the quosque? That quosque *secundam legem terre*
deliberatur but it is not quosque curia *adfare* vult:
 in 16 H. 6, Markham was then a lawyer and E. 4 askt him if the
 king might arrest one; the lawes to the king are quo ad di-
 rectionem and not quo ad correctionem. Fortescue cap. 8, nul-
 las Regem Anglae propria one canne comitt any, it is too
 lowe a thing for him. 8 H. 4, the king hath distributed his
 Judiciall power to Courts of Justice and to ministers of
 Justice, and it is too lowe for soe great a Monarch as the
 king is to comitt men to prison. 18 E. 5, rot. 35, Bilson's Case,
 sed quaesitum est vel leiutenant si alia esse et causa qui
 vel respondit non habuit nisi *brevia* p^redict sed qua vida-
 tur curiae *brevia* non esse sufficient ideo deliberatus, here
 is a Court that cannot bee daunted with any feare, now to
 your ballance which is in your hand that sitts in the chaire,
 putt in Stamford and 25 E. 1 (though it was nothing) into one
 ballance, and into the other putt in the 7 Acts of parlia-
 'ment, 3 books cases and the presidents Iurae haec via

be, then this house cannot sitt nor the lords whom it equally concerneth. 2. the indefinitenes of the tyme. This imprisonment is without limitacion. Then noe shopps kept. Accion of these imprisonments may be... very propriety in his goose or horse but (he) is but tenant att will for his libertie. 3. that a man may not be comitted without a fault. 4. that such a prerogative is not for the good of the King. 38 E.3, Cap.9: noe man shall be comitted but by due processe of lawe. 36 E.3, pla.9: ¹ .2

non ducit, ad verbum for my reading I never read any opinion or record against it. There must bee added that if any bee comitted for a just cause hee ought not to bee detained long in prison, by the Statute of Gloucester, if a man bee imprisoned hee shall remaine there till the next coming of the Justices, but there must bee a time. Westminster 2 cap.29, rex concedit that none shall bee long in prison ne diu detineatur in prisona. 8 H.4, 16: if one have a gaole and sue not (on) a comission of gaole deliverie it is a forfeiture."

1. 38 E.3 Statute I, Chapter IX amends chapter 18 of 37 E.3; and fixes the punishment of such as bring false accusations. See-Statutes of the Realm, I.384.

2. Chapter 9 of 36 E.3 reads as follows: "If any Man that feel-eth himself grieved contrary to any of the Articles above written, or others contained in divers Statutes, will come into the Chancery, or any for him, and thereof make his Complaint, he shall presently there have Remedy by Force of the said Articles and Statutes, without elsewhere pursuing to have Remedy." *ibid.* I.374.

those Statutes have bene made for the comon good by the King and his people, ergo all that is against this is against the good of the King. It is dangerous if the King or the Councell table should have such power to comitt without shewing cause.

1 E.2, Stat.

If you sett downe noe cause of comitt-
ment of a Traitor,¹ and he escape ~~it~~ it will be noe fault. Wray,
Cheif Justice, was wont to say that letters of great men were
Letters or hinderers of Justice; for they ever lett in in-
justice or opened way to it. That the Councell Table must be
obeyed or else it will not goe well with the State. 8 H.7:
Cherrie's Case, he was comitted to the Mayor of Windsor. 8 Jac.,
Caesar's Case,² it was returned he was comitted pro Mandatum
Regis;³ ordered that unlesse he made a better returne, he should
be bailed. 16 H.6, that an accion of false imprisonment lyes
against him that will arrest a man without shewing cause.
This was by the Chancery Court. Markham, Cheif Justice, said
to E(dward) 4 that he could not comand any to be arrested
without cause. Noe King ever comittes any man but leaves it
to his ministers and Courts of Justice; and it is too lowe

1. This is really 23 E.I, the Statute of Breaking Prisons.

"Old Printed Copies and Translations -----attributes this Article to the First Year of King Edward II". Statutes of the Realm, I. 113.

2. See the precedents given in Cobbett's State Trials, III. 48 and the argument on the case on p. 48.

3. ibid. III., precedents p. 119; and arguments on pp. 56, 141-2.

a thing for the prerogative of a King to comitt a man by himself. There is noe authority or opinion in law but Stamford¹ for this imprisonment and yet he hath studied the lawe these 55 yeares. If the Councell doe comitt for a just course pretended, should he be long deteyned? Statut of Glocester: if a man be comitted he shall lye² till the next coming of the Justices or the next Jayle delivery. 8.H.4., fol.6: If a man have the keeping of a prison and doe not sue out for the delivery...

MR.SOLLICITOR: 7.H.4: the King demanded of Gaspin, one of his Judges, that if he sawe John on Oke kill a man and evidence, and the Jury find John a Stile guilty for it, he must Judge according to the evidence of Jury, but would, knowing the contrary, appeale to the King for mercy. 12.Jac., by Cooke, Crooke, Dodrige, and Haughton after 4 Termes Abbatement that the comittment of Sir Sam. Salkingstall pro mandatum Concilii de Regis... Resolved that he was not Bayleable. And Coke, then cheif Justice, said that those that were comitted

1. William Stamford (d. 1558) was made judge of the Court of Common Pleas in 1554. He was the author of (1) *Les Pleez del Coron.* (2) *An Exposition of the King's Prerogative*; collected out of the great abridgement of Justice Fitz-Herbert. He was much quoted by later legal writers.

3. For this case see: Cobbett's *State Trials*, III. *Precedents* p. 120; and arguments, pp. 107, 143.

2. Statute of Gloucester, 6.E.I. *Statutes of the Realm*, I. 45-50.

by the lords of the Councell were not bayleable by any Court. The Judges in those tymes held a better opinion of Stamford, and were of another opinion the Statute of Westminster.

¹
SIR ED (WARD) COOKE: that he knoweth noe such resolucion in 14. Jac. but when he read Stamford and noe other, he was of Mr. Sollicitor's (opinion) ; that the powder treason being in 12 and 13., because the traitors did disguise their names he might remitt it.
²

SIR THO (MAS) WENTWORTH: that he would have had Mr. Sol-
³
licitor to have spoken first; that Mr. Sollicitor may on Monday next deliver all he knowes of this att Ward.

31 MARTII, 1628.

⁴ SIR R (OBERT) PH (ELLIPPS): that Sir E.C. is Monarcha Juris and thoughte it were the pleasure of the State to remove him from the King's bench here yet he hopes he shall have a place in the King's Bench in Heaven. Presidents and the opinion~~s~~ of Judges are but servants of the lawe and where anything is doone against the Statutes by either of those it ought not to move.

1. Possibly "concerning" should be inserted here.

2. Sir Edward Coke, confused by being confronted so suddenly with his earlier decision, attempts to account for that decision and cites the Gunpowder Treason, which really occurred in 2nd and 3rd Jac.

3. Sir Thomas Wentworth, M.P. for York. Members of Parliament, I. 479.

4. This speech of Sir Robert Phillipps follows a report of

ORDERED uppon a Message from the lords, that the Speaker with the whole house shall this after noone (attend) (with the lords of the upper house) the King with the petition against Recusants.

¹ SIR E(WARD) COKE: that he was of Stamford's opinion that a man comitted by the King without shewing cause could not be bayled, untill after he had bene judge in the King's Bench and saw that the members of this house were comitted att the King's pleasure; that made him spend tyme to looke out presidents and then the Statutes of the Realme; whereby he is satisfied that such comittments are against the libertie of the Subject.

Mr.Selden's from a committee of lawyers which had investigated the precedents and records. The speech begins-"I rise to acknowledge the faithfulness of this report which is already reported and I shall a little free and vindicate that great monarcha juris, Sir Edw.Coke, from the imputation that was cast upon him...." Mass.MS.pp.50-51. The speech is much longer there, and is followed by a speech of Mr.Sollicitor's, explaining how he secured the record he had quoted.

1. This speech is a continuation of Sir Edward Coke's defence against Mr.Sollicitor, concerning his earlier opinion as judge. This is only a portion of the speech, which is followed by words of commendation and a request that a copy of the judgment be brought into the House, from Elliot. It is followed by a speech by Mr.Chancellor. Mass.MS., 51-52.

1 APRILLIS, 1628.

An Act to avoide suspicion of injustice in any member of the Comons house of parliament.

An Act to avoide suspicion of misdemeanor in any member of the Comons house of parliament.

This is the 2. reading of these Bills.

MR.BROWNE: saith Bracton, de iuribus potestas est iuris
¹
 potestas in iures exercere autem Rem et potest potestatem
 iuris sed potestatem iniur^{is} diabolis est. There is nothing
 can be doone by power for the good of the people but it may
 be doone and none will finde fault with it. ²

1. There are three Mr.Browne's in this Parliament. George Browne, M.P. from Somerset. Members of Parliament, I.478. John Browne, M.P. from Dorset. ibid. I.477. John Browne, M.P. from Gloucester. ibid. I.475.

2. Mr.Browne's speech in full from Mass.MS.p.56 is as follows: "Yesterday a question was well propounded that a latitude was left to the judges in Westminster to expound the Acts of State, amongst us there is a figure of simulatio, soe amongst the counsell board, there they call matters of State. It is a ground with us, the lawe gave and provided a remedie for everie wrong. Bracton lib.3, potestas est iuris et iniuriar^{um} verderbet exercere potestatem iuris qui solus est Dei vicarius sed potestas iniure est diaboli, is anything done at the counsell table or elsewhere but is for the good of the Common-

MR.HACKWELL: 51.E.3. :an awarde made betweene that King
 and his Subjects.¹25.E.1.cap.3 : that whatsoever is donne
 contrary to the libertie of the Subject shall be undonne.²

MR.SELDEN: that there are for our libertie expressly³
 in the point,⁷ Statutes and 11 presidents without excepcion.⁴

RESOLVED on the question by this grand Comittee of the
 whole house;that noe freeman ought to be comitted,deteyned
 in prison,or otherwyse restrained by the Comand of the King
 or the privy Councell or any other,unlesse some cause of the
 Comittment,deteynment,or Restraint be expressed for which
 by lawe he ought to be comitted,deteyned,or restrained.This
 Resolucion confirmed by the whole house 3.Aprillis as after
 in that daye's notes.

RESOLVED likewise on the question by this grand Comittee
 That the writt of habeas corpus may not be denied but ought

wealth then it is potestas iuris and was never complained of,
 it is potestas ad salutem,and it is salus populi,if you will
 use your power call it what you will,but to part the King's
 subjects is potestas iniuriae and I beseech God to deliver
 us from it,potestas Dei and potestas iuris is allowed."

1. 51.E.3. See Statutes of the Realm,I.396.

2. Probably refers to Confirmatio Cartarum,cap.2. ibid.,I.123.

3. There is no speech by Mr.Hackwell|given in Mass.MS!'s report
 of this debate,which has sixteen speeches in all.

4. This is a summary of a longer speech given in Mass.MS.p.57.

to be granted to every man by his Comitted, or deteyned in¹ prison, or otherwise restrained though it be by the Comand of the King, the privy Councell, or any other, he praying the same. This confirmed by the whole house 3. Aprilis, as after.²

RESOLVED alsoe on the question by this grahd Comittee; That if a freeman be comitted or deteyned in prison or otherwise restrained by the Comand of the King, the privy Councell, or any other, noe cause of such comittment, deteynement, or restraint being expressed for which by lawe he ought to be comitted, deteyned, or restrained, and the same be returned^{granted} uppon a habeas corpus for the said partie; that then he ought to be delivered[^] or bailed. Confirmed on the question by the house 3. Aprill.

2 APRIL., 1628.

MR. ALFORD : would not have us enter into the Consider-³ acion of all the particulars: we should declare the King's⁴ wants to be greater then the kingdome is able to

1. Nicholas evidently began one constrution and finished with another. What he means to say is probably _ "upon his being comitted" etc.

2. This entry was evidently inserted at a later date.

3. Debates on his Majestie's propositions. This account is fuller and probably more correct than others.

4. Edward Alford, Esq; , M.P. for Colchester Borough, Essex. Members of Parliament, I. 475.

supply. That the Dunkirkers confessed that they are to lie¹ in severall partes of our Coast to dispoile the King's Subjects. Desires that we enter into Consideracion of those proposicions as most concerne the safety of the state.

SIR RO(BERT) MANSELL: that 7 of the proposicions are² fitt to be presently considered: these seven to be referred to our next meeting. The first 7: the 3 first and the 5.8. 9.13. There were wont to be 32 and 34 merchants shipps built every yeare; now there have not bene above 6 bene built these 3 yeares. He approves well to have a Magazin of victualls. He prayeth there may be noe more fleetes or armies sett forth for foraine service, but that we may watch a good opportunity; he moveth there may be 3 or 4 hundred thousand pounds preently raised for these services.

SIR F(RANCIS) SEYMOUR: that he beleeveth that it is a³ Supply that is desired by his Majestie and he has and hopes every one is to give. That he thinketh it the greatest greivance that his Majestie should be brought into this Necessity considering the great Supplyes.⁴ The state of the Queen of

1. Privateers from Dunkirk. One had just been captured and the men examined by Mr. Alford. Mass. MS., p. 57.

2. Sir Robert Mansell, Vice Admiral for Glamorgan County. M.P. for Glamorgan County. Members of Parliament, I. 479.

3. Sir Francis Seymour, M.P. for Wilts. ibid. I. 478.

4. Two subsidies given by the last Parliament, privy seals, and forced loans. Mass. MS. p. 58.

Boheme is noe better then it was, for we have hitherto only wrought our owne dishonour. He thinkes if there be not a carefuller disposal of the Supplyes that shall be given, he feares we shall put all but in a bottomles purse. He (would) we not touch on particulars but had rather that those who are faulty would finde their owne errours, then put this house to tell it them. Moveth there may be a select Comittee for (to) take the King's proposicions into Consideracion.

MR. PYM: would not have us to medle with any arreres¹ but that of the freight, for there may be some misgovernement in the accounts.

SECRETARIE COKE: 2 things are to be considered. Desires (us) to consider that the 3 first proposicions drawe on all the rest of the proposicions. What thoughe the people cannot give all presently, yet the house may give some to be levyed as may be for the people's ease; whereby the King may be enabled to performe the services. And besides it will add much to the honour and reputacion to the King and his wars. The King enlargeth the respect of the house, and desires us to be sure of his Majestie's gracious inclination to us but not beleieve rumours. Desires the proposicions may be all examined here and what we shall not thinke fitt, that we leave it out. Necessity hath bene the cause of all the disorders and irregularityes of things past; let us give testimony

1. Mass. MS. inserts a speech by Sir James Perrot.

to the world that we looke only on businesses not persons.

SIR D¹(UDLEY) DIGGS: doubts it is not fitt for us to meddle with the 10,000 foote and 1,000 horse for forraigne service, but for those for the King of Denmarke he approoves of it, and the rather to be rid of the Soldiers here, which are an unnecessary burthen to the kingdome.

SIR NAT. RICHE: unfitt to speake of the Army for foraine service, and yet will not have that proposition rejected least it makes our Enemies too secure who, if we reject the same, the enemy being then secure may then prepare for our invasions. He offers it to consideracion how it may trench upon our libertie to give a Supply for gard of the Seas and coast, now when we are passing the Bill of Tonage which is only for that purpose. Therefore that we rather give a Supply in generall, for supply of the King's necessities.

MR. THRES²(URER): that we should not stand to examyne particulars but resolve to give his Majestie a good and plentifull Supply.

MR. SPENCER: that the King's Revenu is out of order
 3. 4

-
1. Sir Dudley Diggs, M.P. for Kent. Members of Parliament, I. 476.
 2. Sir Thomas Edmonds, M.P. for Penryn Borough, Cornwall. ibid. I. 474.
 3. Mass. MS. (p. 60) inserts a short speech by Mr. Coriton.
 4. Richard Spencer, Esq., M.P. for Northampton Borough, Northampton. Members of Parliament, I. 476.

and till that be settled which must be donne by this house, we shall find the arreres the next yeare as great as now they are. He would not have us to examyne or give for particulars, least it may prejudice us hereafter. That the State is to beare all the charge of the warres.

SECRETARIE COKE: the reason of the demand of the Army is to make an offensive warre, for a defensive warre is a miserable and wasting charge for noe purpose. The rumour of our warres hath caused the French King to raise in Picardy and other partes on that coast 8,000 men only to prevent our invasion; if we give this our preparacions over then will they invade us.

SIR JOHN ELLIOT¹: because Mr. Secretarie Coke saith it is as necessary to have a preparacion for invasion of our Enemy... looking back on our later expedicions he is amazed to thinke of levying any more men. Att Cadis when we found there the Spanishe shipps fitt for our Conquest, there was a great neglect in taking of those shipps; alsoe why when our Army was there landed and the fort there taken, nothing was attempted. Att Retz the whole accion att the landing, att the intrenching,² att the assault, att the retreat, all

1. Insert for better sense, a phrase from this speech as given in Mass. MS. (p. 60): "There may be some necessitie for a warr offensive but -"

2. The Island of Rhe, near Rbchelle.

against the councell of all the experienced and able men. He will omitt to speake of the leaveing of the wyne and Salt,¹ the Manifesto sent over and our enriching of the Enemy with courtesies when our men wanted victualls.² Would decline the sending of an Army and apply ourselves for the defence of the Coast.

SIR ED. COOKE: would have us give a generall, speedy, and bountifull Supply.

³
SIR THO. WENTWORTH: would not take into his providence any forraine invasions, which being arcana imperii he leaves it to Statesmen; for the Country cannot judge of anything but our owne defence. That we have donne nothing for the Subjects' satisfaccion but only by 3 questions here att a Comittee; but we have donne nothing with the latitude of power

1." Now for the benefit that the King may reap by that island, besides the two chief commodities thereof, wine and salt, which bring a good revenue, for it affordeth no less commonly than 15,000 or 16,000 tons of wine by the year, and salt to a greater value - " Beaulieu to Puckering, Court & Times, I. 257.

2." There is a manifesto published in French by my lord duke, to declare his Majesty's purpose in this action to be only for the defence of those of the religion, wherein he findeth his honour more interested, because the treaty made with them at his majesty's intervention hath been broken." *ibid.* I. 264.

3. Mass. MS. gives a long speech. pp. 60-61.

given to deputy lieutenants and the Comission^{ers} for Loane which was soe irregularly levyed. Would have the further debate and resolutions of the King's Supply referred till Friday next.

It was ordered according to Sir Th. Wentworth's mocion. ¹

3 APRIL,

The lords of the upper house send up this Bill: An Act for the increase of trade.

The 3 questions resolved on by the grand Comittee 1. Aprilis, as before in that dayes notes appeare, were now this day resolved on by question by this house.

RESOLVED by the house upon the question: That the auntient and undoubted right of every freeman is that he hath full or absolute propriety in his goods and estate; and that noe tax, tallage, Loane, benevolence, or other like charge ought to be comanded or levyed by the King or any of his Ministers with-

1. Mass. MS. adds five speeches before the House takes up the debate on the liberty of the subject. The majority are in favor of granting supply as a means of securing redress of grievances and gaining the favor of the King. Old Parl. Hist. VII. 400-403, also gives others.

2. This question, when the other three were voted upon, was referred back to the Grand Committee. It was later reported on by them and voted upon separately. C. J., I. 878. This accounts for its being given in full here instead of being included in the general statement with the other three.

out comon assent by act of parliament.

4 APRILIS, 1628.

An Act for the Subsidy of Tonnage and Poundage.²lectio.

SIR E. COOKE: that this Bill lookes back and saith that those that have not paid the Subsidy of Tonage and poundage shall pay all the arreres due since 27. Martii, 1. of the King; but he would not have (us) lay a forfeiture or penalty on any that have not hitherto paid because there was not then any law for it and this ought not to be paid but by the law. He would not have us by it say that any gentleman that sendeth for wyne for his owne provision should pay any Custome or impost.

MR. DELBRIDGE: that noe other imposition may be laid on merchants but what ⁱ is by this Bill given.

The house inclyned not to give any thing more for garde of the coast but what is by this Bill (given).

4 APRIL., 1628.

Att a comittee in the whole house.

SIR B. (RUDYERD)²: we have received soe many gracious fa-
³vors from the King that it is now tyme not only to give thanks

1. John Delbridge, merchant, M.P. for Barnstaple Borough, Devon. Members of Parliament, I. 475.

2. A message had just been brought by Sec. Cooke from the King, urging supply. Mass. MS., 66. Old Parl. Hist., VII. 428.

3. See Mass. MS., 66.

but retribucion that what we give here will give farre greater requitacion and aide to his Majestie then any aide by any other meanes. The rents of our lands are bettered but the Subsidy is not increased;and the Subsidy holdes upp with none but nobillity and Clergie. That we should have the subsidies raised ~~par~~^{humanus}. Money given by parliament hath rootes, it will growe againe, but money otherwise given doth roote it upp. Wisheth that every one that is sessed att 5^s may pay more by the pound then hath bene heretofore. And whatever we here advise or resolve on will be acceptable to the Country.

MR. GOODWIN: that the bill of Tonnage and Poundage is given for garde of the Coast and would not have us give more for that.

MR. BROWNE: would have us give liberally and fittly without condicion. That we may give the King 4 Subsidies and 4 fifteenes; he will not limitt in what tyme to be given. And he desires a care may be taken for the sessing. The shifting Certificatts are the cause of the decay and diminucion of the Subsidies. That every man may pay every where where he hath land may pay Subsidies. That every one will put money together to goe to a lottery, that therefore that all those

1. There were two Goodwyn's in this Parliament. Robert Goodwyn, Esq., M.P. for East Grinstead Borough, Sussex. Members of Parliament, I. 478. Ralph Goodwyn, Esq., M.P. for Ludlow Borough, Salop. *ibid.*, I. 477.

(that) be above sixteen yeares olde shall pay though ser-
vants or others (except those that live by almes) may pay 6d.
by the head; every gentleman 12 d. and strangers and recu-
sants 2 s. apeece. That this is in 5.E.5.,¹ 4.H.8.,² and in the
Scripture, that all the world was taxed.

MR.KIRTON: protestacion of his affeccion. That the King's
³message hath warmed his hart; that he is sure that the King's
⁴message was not to captivate our judgements.

Mr.HU.PYME: in busines of weight, dispatch is better then
⁵discourse. Our disunion, the poverty of our Country, and our
wants doe encourage the ennemy; let us take away the Enemy
which must be, by giving liberally. Would rather double his
proporcion and pay 2. his Tithing then lay any Subsidies on
the poore people. If we lay Subsidies on the lands of those
that have it in severall partes you will anger those gentle-
men. But there is an errour in Comissions of taxes; desires
there may be free reformation of them, but leaves the way to

1. 5.E.5.

2. 4.H.8.

3. Edward Kirton, Esq., M.P. for Great Bedwin Borough, Wilts.
Members of Parliament, I.478.

4. A message delivered by Sec. Cooke. C.J., I.879. It may be
found in Old Parl. Hist., VII.428; and Rushworth, I.524-5.

5. Mr. Hugh Pyne, M.P. for Weymouth Borough, Dorset. Members of
Parliament, I.475.

Summer's Malicious, 75
Finds out for Charles both of notes for
19 jao

See Edw Cole.

Whosoever shall, written there may be
Lapsus Linguae, then that shall be a lapsus penae
the Clerk. Besides I will, & desire that
any notes & debate matters be read, binding
to the House, whereas notes made by the House
do not by us.

The H. resolving in tacite consent that we
will not send up their bill in the Charles books

the house to be advised on.

MR. SELDEN: he would have these propositions taken into Consideracion for two reasons: (1) for that his Majestie hath sent the propositions to us and we have received them; and to passe by them we shew too great a neglect and disrespect to his Majestie. And all of them except the 2., 4., and 5. are of such nature as hath bene usuall for parliament to provide. (2) and if we give a Supply in generall it will be taken that we give it for all these propositions; and it hath bene often objected that we did advise the King to this warre; and would have us therefore take first into consideration the propositions.

SECRETARIE COKE: that the propositions are not to bynd the house to give for them, for they are not demands but propositions, and therefore we shall not neede to stand too long on them. It must be our workes and not our words that must now give his Majestie satisfaccion.

SIR H²(ENRY) MARTIN: we must have the propositions in Consideracion soe as to raise in us affeccion to give a

1. Rushworth (I.525) attributes this speech to Mr. Pym; though in different language, the thought is the same and some phrases are identical. Mass. MS. also gives the speech to Mr. Pym.

2. Sir Henry Martin, M.P. for Oxford University. Members of Parliament, I.477.

Supply. If a man hath a desire to relieve a man, and take from him a note of all his debts, of all his engagements in every person; but if a man meane to give him but 40 s., his debts and engagement amounting to a great Summe, to what end to see all the particulars thereof? Other kingdomes have come out of as great miseries; but that must be by acting not discoursing. If a man looketh through a greene glasse, all appeares to be green; if we looke through the glasse of discontentment we shall more discontent ourselves. He desires that we leave of meddling with the propositions and goe on with giving a Supply in generall.

SIR FR. SEYMOUR: whosoever seekes to advance the Supply or the libertie of the Subject, the one before the other, loves neither; and to joyne them, seeing we demand but what is our owne, cannot be thought to put condicions on his Majestie. The King's message hath wrought much in him. He declines fiftenees, conceaveth 5 Subsidies fitt to be given in one yeare, which is a greater Supply then was ever given in soe short a tyme.

SIR ROG¹(ER) NORTH: would have us sweeten the King with a Supply, albeit he did never thinke to have given Supply in the infancie of a parliament, for that he hath ever observed such lamentable effects of it. Would have us give 4 Subsidies and 2 fiftenees.

1. Sir Roger North, M.P. for Suffolk. Members of Parliament, I. 477.

SIR TH. WENTWORTH: this as weighty a cause as ever came into this house; would have us proceede evenly and equally betweene the King and his Subjects. He likes not this pressing uppon the house for Supply att the beginning of parliament, and hopes hereafter the King will call see pleaurably as that we may not be put on the rack of necessity but drawne on by ^{the} cordes of affeccion. He thinkes the propositions should be declined, for now to fall on them may be thought a way of diversion. There is a faire offer of the King's parte, of Reconciliacion; would not have us neglect it. If this parliament should succede amiss it would be the greatest blowe that ever was given to this kingdome. Will put noe Conditions on the King but lookes for assurances of liberties. Would have the propositions laid aside. He saith he doth not see much feare a breach as that he will doe every thing to avoide it, but had rather sacrifice his lief, if he might doe it fairely, then this parliament should not succede well. Desires it may be put to the question whether we take the propositions into consideration or noe, and after to goe on with the Supply.

SIR JO (HN) ELLIOTT: would have us put of the farther consideration of the Supply till Monday; and now to enter on the propositions.

1. Sir John Elliot, M.P. for Cornwall. Members of Parliament, I. 474.

MR.CREW: that we should give first to God then to Caesar
¹ and ² that we should enter on that Monday.

MR.THRES (URER): that the King said he thought it would
 not be fitt att this tyme to take them into Consideracion,
 and therefore would have us not to sticke uppon the proposi-
 cions.

SIR RO (BERT) KELLEGRUE: would have it put to the ques-
³ tion whether the proposicions shall be taken into consider-
 acion or noe.

SERJEANT HOSKINS: that we have receaved gracious Mes-
⁴ sages from the King which amounts to as much as Magna Charta;
 and would not have us rise before we give to the King.

RESOLVED on the question by this grand Comittee: That
 the further consideracion of the King's proposicions shall
 be forborne till after resolution of the Supply.

⁵ MR.SPENCER: would have us give 5 Subsidies.

1. John Crew, Esq., M.P. for Banbury Borough, Oxford. Members of
 Parliament, I.477.

2. The next four speeches are not in Mass.MS. The preceding
 speeches are in practically the same order; Nicholas omits
 some that are given by Mass.MS.

3. Sir Robert Killigrew, M.P. for Bodmin Borough, Cornwall.
 Members of Parliament, I.474.

4. John Hoskins, Esq., M.P. for Hereford City, Hereford. Ser-
 jeant at Law. ibid., I.475.

5. The next five speeches are omitted in Mass.MS.

MR.STROODE: would have us, before we give, make a Re-
¹
 monstrance to the King of the poverty of the Subject; and
 shew to his Majestie that the loanes of 5 Subsidies and the
 Soldiers which makes it upp as much as 10 Subsidies...

CH(ARLES) PRICE: would give 5 Subsidies and 5 Fifteenes.

²
 MR.HACKWELL: that this day we have receaved a gracious
 Message and it is fitt we should give him thanks by word or
 deede and the King when he granted our petition for the Fast
 said he hoped to have cause to give us thankes for some thing
 that would by too morrow be donne.

SIR JO.ELLIOTT: saith he riseth in great feare that our
 too suddaine resolution will prejudice our intencion in
 giving; would have us not to give till Monday, when we shall
 come with cleare harts.

SIR THO(MAS) HOBBY: that the fifteenes light more upon
³
 the riche then poore; they are certeyne but Subsidies are un-
 certeyne. If the landlord laye the fifteenes on the poore
 then they must beare them. Would have 4 Subsidies and 2
 fifteenes.

SIR FR. SEYMOUR: that the putting of the debates and

1. William Strode, Gent., M.P. for Beeralston Borough, Devon.
 Members of Parliament, I.475.

2. Charles Price, Esq., M.P. for Radnor Borough, Radnor. ibid. I.479.

3. Sir Thomas Posthumus Hobby, M.P. for Ripon Borough, York.

ibid. I.479.

resolutions of this busynes of Supply till Monday would rather prejudice our intencions and desires then otherwise; and on Monday we have resolved to crave a conference with the lords about that which concerns us most.

SIR RO.PHELLIPPS: would have us make a Remonstrance of our liberties to the King but not att this tyme. He saith that never any King sent such a Message in such tymes; would therefore have us now expresse our thanks this day to avoid misinterpretacions. Would give 4 Subsidies to be paid by Christmas next.

SIR ED.COKE: this house hath not yet bene divided and he wisheth we may not put any question that may divide the house. It is reason that in wardshipps and Subsidies a man should have good ~~pleniarthes~~ of his owne land. He would have us give the old way. 4.R.2, the Earle of Buck. was to goe into France and would have a levy by the pole, but this caused a Rebellion and lost the heads of three great men which the Rebells tooke of. 4.H.7, a new levy caused a Rebellion; and he never sawe a New Levy but have had ill successes. Would give 5 Subsidies to be paid before Christmas next.

MR.BELLES: would give but 4 Subsidies.

SIR D.DIGGS: would have us give 5 Subsidies, that the King might see we give beyonde reason out of the abundance of our affeccion to his Majestie.

SIR THO. WENTWORTH: would have us to give 5 Subsidies to be paid by Christmas next.

SECRETARIE COKE: that if he thought that 4 Subsidies would doe the King's turne he would be for it, but that which is offered is with the least and would not have us give lesse then 5 Subsidies.

MR. PYME¹: would give 5 Subsidies because it¹ is the most proposed to be given.

SIR JO. ELLIOTT: that he knoweth not how 4 Subsidies will be levied without Soldyers; would give but 4 Subsidies.

RESOLVED by this grand Committee on the question that we shall give to his Majestie 5 Subsidies in a parliamentary way.

SIR TH. WENTWORTH: that there may be noe report now to the house of this resolution for this gift is upon an assurance that the King will settle the fundamentall libertie of the Subject. Would have the grand Committee appoint a Subcommittee to draw into a law what may assure us of our libertie of our persons and propriety of our goods, before we report the Resolution of our gift.²

The Speaker goeth into the Chaire and the house riseth.

1. John Pym, Esq., M.P. for Tavistock Borough, Devon. Members of Parliament, I. 475.

2. The last speech gives a clear statement of the reasons the Commons had for not reporting this grant. Forster (II. 23)

6₁ APR. 1628.

An Act for further punishing of adultery and fornicacion.
l.lectio.

An Act for reformation of the abuses of the Clerke of
the Markett.

ORDERED on question that a Comittee shall too morrow
morning, take into Consideracion the severall complaints of
the Souldiers and abuses, who are billited in the Kingdome.

ORDERED too morrow att 2 o'clock the Comittee shall
draw a peticion to the King for the wyne merchants.

Peticion of the Turkey merchants concerning an imposition
on the Currants.

ORDERED that the privy Councell shall give the King
humble thanks for his Majestie's gracious answeare to the
peticion against Recusants.

ORDERED that the Comittee appointed to consider of the
billeting of Soldiers shall take into Consideracion the best
meanes for settling of the libertie of the Subject for the
future.

tells of the debate in a few short sentences, but dates it
April 3rd instead of the 4th, as given by Rushworth,^O.J.,
and Old Parl.Hist. Mass.MS. states that it was resolved
to report the grant to the House. (p.72) The last three
speeches are not given there.

1. The proceedings of this day are dated April 7th in C.J.,
I.879-880.

8 APRIL., 1628.

Att the house.

ORDERED that the Subcommittee of the grand Committee for Religion shall compare his Majestie's answeare to our petition against Jesuitts etc. with the answeare given by the King to the like petition att Oxon; and where his Majestie's now answer shall be short, there to thinke of some course to beseech his Majestie to Supply the defects.

Att the grand Committee; Mr. Littleton in the Chaire. ¹

MR. STROODE: that my lord Duke left 3500^l with Sir James Bay for payment of the Soldiers' billett monny; but he paid only one weeke's billett monny and what he hath donne with the rest he knowes not. Would not name Sir James Bay till comanded.

An inclinacion that Sir James Bay shall be sent for.

MR. SHERLAND: ²noe Saltpeter men can by the law come into my mansion house to dig or otherwise without my leave. 21.H.7, ³a man may kill a man for defence of his house. In Seaman's Case, ⁴

1. The debate on billeting of soldiers in this committee is given only by Nicholas and Mass. MS. (pp. 75-78) which gives some speeches not in Nicholas.

2. Christopher Sherland, Esq., M.P. for Northampton Borough, Northampton. Members of Parliament, I. 476.

3. Statutes of the Realm give no statutes later than 19.H.7.

4. Semayne's Case; see Coke's Reports, V. 91a.

in lord Coke's report, a man cannot (though he have execution against a man's goods according to law) enter a man's house, take the same without his leave; much less may Soldiers be billeted by force. The law doth not only give a man interest in his goods but doth allow he may defend them and beat them that taketh the same away; vid. 22.H.7 and 9.E.4, fol.28. This billeting of Soldiers is a transcending business and if the house keepers or people had refused as by law they might have done, it had made an uproar in the State. Moves that we may freely and feelingly represent this grievance to his Majesty and crave his gracious redress.

MR.HACKWELL: 35.chapter of Fortescue who writeth of the miseries of France in billeting Soldiers there, and that no man may be billeted in England against the Subject's will and paying for what he receiveth. 1.E.3, fol.7: which King

1. Sir John Fortescue (1394?-1476?) Chief Justice of the King's Bench, and legal writer. His most important work is "De Laudibus Legem Angliae".

2. Statutes of the Realm, I.256: "Whereas Commissions have been awarded to certain People of Shires to prepare men of Arms, and convey them to the King into Scotland or Gascoign, or elsewhere, at the charge of the Shires; the King hath not before this Time given any Wages to the Said Preparers and Conveyers, nor Soldiers whom they have brought, whereby the Commons of the Counties have been at great charge and much impoverished; The King will that it shall be done so no more".

promised the Subjects on their Complaint, that it shall be soe noe more.

SIR ED. COKE: till of late there was noe ~~certeynty~~ or consistant Comission of deputy lieutenancy; in tyme of peeece a deputy lieutenant can doe nothing but according to lawe. Pasch. 39.E.3, Rot. 32: and every good man found arraigned in tyme of peace, etc. When the Courts of Westminster sitt, it is tyme of peace, and then noe man can be arraigned or condemned but according to the lawes of the Realme; and therefore sitting (of) the Courts of Justice, (which is tyme of peace) noe Martiall lawe₁ can be executed, nor noe Comission in tyme of peace but such as is according to lawe. 1.E.3, pasch. Roger Mortimer's Case, he was condemned and executed for a Rebellion; his sonne recovered his estate. 14.E.3, Fitz-Herbert, 12b, noe Martiall lawe. Pasch. 28.E.3, Rot. 37: Roger Mortimer, Earle of March, because that earle was not

2

1. The question of the billeting of soldiers involved also martial law, when for the soldiers were governed by martial law when billeted among the people.

2. Roger Mortimer, Earl of March, was impeached in 3.E.3, on a charge of treason. "He was not brought to answer, but condemned without hearing, and for that reason this Judgement was reversed as erroneous, and made void by act of parliament and his grandchild, Roger (not his son as Nicholas says) restored to his title and estate, 28.E.3." Cobbett's State Trials, I. 54.

executed according to lawe, he recovered his father's land. Would have a Subcommittee of a few to draw a petition to the King to beseech the King to be freed of these vermyne, the Souldiers.

MR. KNIGHTLY₁: that the Souldiers sent to Northampton, are sent rather for a punishment then for the King's service. He saith the Soldiers for the most parte are Irishe, red shankes, ~~Archdutches~~ Captains and Papists who are not fitt to be trusted in the Kingdome. We have given 5 Subsidies, and he is of opinion that they are men, for aught he sees, prepared for rebellion, and monny given may be alsoe for that use. This Kingdome is not to trust to any for defence of it then the trayned bands who have estates and wives and children, and will fight for us, and may be trusted, and not such vagabonds and idle soldiers.

SIR THO. WENTWORTH. would have this grevance taken away not only for [the] present, but the fright of it alsoe for the future. And would have a petition to the King for the present and a provision for the future by Bill. The reason of these inconveniences is because there is noe established lawe to give power to deputy lieutenants how to provide for such services of the State; which he would have donne by a lawe which may regulate and prescribe a moderate course and manner for the future for such ser-

1. Richard Knightly, Esq., M.P. for Northampton. Members of Parliament, I. 476.

vices of the State.

SIR PET(ER) HEYMAN₁:saith that the good course of armies in all partes is and should be,to pay well and hang well; and if there be due payment made to the Soule-
diers and good officers to governe them and they bil-
lited in townes together and not in the Country scatter-
ing,would rather be a good then hurt to such townes.

RESOLVED on the question by this grand Comittee:
That the billeting or placing of Soldiers or any other
person in the house of any freeman against his will is
contrary to the lawe.

SIR JO.ELLIOTT: that the Comissions of Oyer and Ter-
miner and the Comissions of Justices of Peace,chequed by
other Comissions for meddling with soldiers...That he know-
eth that men have bene executed by Comissions of marshall
lawe.

MR.RO (BERT) MASON₂:that we testified that Comissions
of marshall lawe are sent forth and have bene executed.
Those Comissions are accompanied with instruccions and
there is noe man that may not fall within compasse of
those articles.It was never knowne that marshall lawe was

1. Sir Peter Hayman, M.P. for Hythe, Cinque Ports. Members of
Parliament, I. 479.

2. Robert Mason, Esq., M.P. for Winchester City, Southampton.
ibid., I. 477.

in peace exercised that was not revoked or declared voide as in the Case of the Earle of Mortimer. Spldiers may be executed by Comissions of Oyer and Terminer by calling of a sessions;but Comissions of marshall Lawe ought not (during) sitting (of) the Courts of Justice, to be put in Execucion.

A Sub Comittee appointed to consider of a petition to the King concerning the billeting of Soldiers.

9 APRIL.,1628.

Mr. Baber₁, recorder of Wells, being complained of for billeting of Soldiers in that Towne and a warrant under his hand produced for billeting of them. He made his excuse that he did it by order from the lords₂, and seeing the Soldiers there present redde to have offered violence and disorder if they had not bene soe ordered and billeted.

The house, disliking that he being a lawyer and knowing that such billeting was against the lawe, caused him (being a member of this house) to withdrawe.

SIR ED (WARD) RODNEY₃: that he wonders that there should be a complaint of the billeting in Wells, for the persons in whose houses they were billeted were not greeved and he believeth never complained.

1. John Baber, Esq., M.P. for Wells City, Somerset. Members of Parliament, I. 477.

2. Lords of the Council.

- 3. Sir Edward Rodney, M.P. for Somerset. *ibid.*, I. 477.

MR. LITTLETON₁: the greatnes of Mr. Baber's offence is that he hath extended his discrecion beyonde lawe. The officers of the Soldiers, or their miserable estate might have moved him to have given his owne charity but not to impose Soldiers on another man. He would have him expulsed the house or att least sequestred till the house's pleasure be further ordered.

MR. CHA(NCELLOR) of the DUTCHY₂: that Mr. Baber will justify himself on the deputy lieutenants, they on their lieutenant, he on the Counsell, and the Counsell on the King. He desires the house not for this particular to disturbe the peace of this house and the proceedings of this house, and not to make Whitehall and Westminster to clashe.

SIR FR. SEYMOUR: that Mr. Baber had noe warrant from the deputy lieutenants. He agrees with Mr. Littleton for his punishment.

SIR JO. ELIOTT: that there came noe order for billeting of Captains or officers from the lords of the Councell. Would have Mr. Baber expulsed.

MR. SECRETARIE COKE: Mr. Baber's fault hath bene justly agravated by Mr. Littleton. Since he hath acknowledged his fault and shewen therein his abillities, that he may be only

1. Edward Littleton, Esq., M.P. for Carnarvon Borough, Carnarvon. Members of Parliament, I. 479.

2. Sir Humphrey May, Chancellor of the Duchy of Lancaster.

bequestred; and he is glad that it appeares that Mr.Baber had noe warrant to doe what he did.

MR.SELDEN: that it will appeare uppon examinacion that deputy lieutenants could not give him any power or authority to billett Souldiers;and since he alleged that it was feare of the Soldiers and feare of being sent for by pursivants to the lords,he doubts he will be afraide to doe his duty in this house and therefore would have him expulsed.

MR.SHERLAND: that since this recorder stands noe way under the awe or authority of deputy lieutenants;He is of opinion that none is soe incorrigible as a coward and would have him expulsed.

MR.WAINSFORD: desires us to looke uppon the Unity of this parliament and it being doubtfull whether he have put his finger officiously into this busines or noe,and till that it be cleered whether he hath officiously medled in this busines or noe,would have it referred to the examination of a Comittee,that wee may not be censured out of this house.

SIR ED.COOKE: that Mr.Baber saith that he made the warrant for feare of being sent for by a pursuivant and for feare of the Souldiers;but this man did billett men without warrant.E.H....noe man ought to doe any thing for feare. Solomon saith that feare is a betraying of Sinners

.Would have him suspended as long as this house shall thinke convenyent.

It is resolved Mr.Baber shall be called in to answeare by what personall direccions he did billet the Soldiers;He is called in and stands in his place to answeare.

MR.BABER: that he receaved personall direccions by word from Sir Ed. Rodney,a deputy lieutenant,that there were soldiers to be billeted in Wells;that he knew best the state of the Towne and therefore should dispose of them and place them as they thought best.

SIR E.RODNEY: that himself and Mr.Hopton,another deputy lieutenant,did jointly give him the direccions as Mr. Baber hath said.

SIR THO.WENTWORTH: that this offence is very great, and if this had concerned the deputy lieutenants he should have bene sparing;it seemes by Sir Ed. Rodney that the warrants were not to the Recorder or Mayor but only to the Constables.

SIR THO. HOBBY:would have Baber sequestred till the Committee appointed to examyne disorders of deputy lieutenants, have examyned his fault;and that it appeares that he is more faulty then other men in this kinde.

MR.PYM: that this house may expell out of the house such as offended against the comonwealth,as Sir G. Monperson.And we may expell any man that hath bene too busy

1

1.Sir George Monperson,expelled Feb.162⁰/1,for projecting
a patent for Inns,etc. C.J.,I.530-576.

or offended against the Comonwealth as unworthy to be a member of this house. Would have Baber only to be suspended during the pleasure of this house.

MR.WHITBY₁:the house seemes to inclyne to punishe Baber because he hath billited men without warrant;which if we doe it will tacitely imply it might have bene donne with a warrant. Would have him sequestred.

MR.GLANVILL₂:that Sir @.Monpesson,Sir Flood,₃Sir Hen. Britton₄were all att severall tymes expelled by the house for projecting things against the good of the Comonwealth. Would have him sequestred or suspended during the pleasure of the house,which amounts to as much as an expulsion.

SIR RO.PHELIPPS: there came noe direccions from Whitehall to billett any officers as Baber hath donne.Would have him suspended and if he desire to have this busines examyned it may be donne.

Mr.Baber being called into the house,confesseth that he had noe warrant directed to him for what he did,but that

1. Edward Whitby,Esq.,M.P. for Chester City. Members of Parliament,I.474.

2.John Glanvill,Esq.,M.P. for Plymouth Borough,Devon.ibid.I.475.

3.Sir Robert Floyde,expelled March,162⁰/1,for projecting a patent for engrossing wills. C.J.,I.567 et seq.

4.Sir Henry Britayne.His patent for dispensation with tillage,etc.,condemned March,1621. C.J.,I.567-573.

there were warrants directed to the Constables and Sir Ed. Rodney wished him by word of mouth to see the Soldiers well ordered and disposed etc.

RESOLVED by this house on the question: That Mr. Baber, Recorder of Wells, shall be sequestred the house and suspended from sitting as a member of this house till the pleasure of the house be further knowne and the Committee for deputy lieutenants shall have further examined his abuse and fault, and a report thereof be made to the full house and that no motion for his readmittance into the house shall be made but in a full house. This sentence was sent by the Serjeant to Mr. Baber.

An Act for tonnage and poundage was now reported and recomitted to the Committee of the whole house.

ORDERED that the Recess shall beginne too morrow att Noone and the recess to be that day sennight and then the house to be called; and he that failes, to pay 10 ℥ for the poore and such further punishment as the house thinke fitt.

RESOLVED on the question that the petition against the billeting of soldiers shall be presented to the King.¹

10 APR., 1628.

The members of this house that are of the privy Council were by the house sent to beseech his Majestie to re-

1. This petition was presented to the King on the 14th of April. It is in Rushworth, I. 542-4.

call the comand he sent us by the Speaker₁ to sitt without a Recesse. Their honours returne and signify that the lords doe sitt att the King's Comand and that therefore his Majestie expects we should doe the like.

SIR JO. ELLIOT: that this necessity is now forced upon us to sitt, by some misinformation to the King, and signall pretences. If this Message had bene delivered 2 dayes since he should have gone on with alacrity; and he beleveth the fault is in those of our house that are of the Councell, who said nothing yesterday when this was in question. Moveth that it may be ordered that noe more members of this house goe away without leave; and that till this day sennight there may be noe word or mocion made Concerning the Supply to be given his Majestie, when we hope the house will be full.

MR. CH(ANCELLOR) of the DUTCHY: that it is true the King caused the Speaker to be sent for yesterday to have signified his Majestie's pleasure for our sitting and noe Recesse.

KIRTON: that since the privy Councell members of this house have bene the cause that the King's message was not more tymely delivered, that it may be ordered that there may be nothing donne concerning the Supply till this day sennight.

ORDERED on question that noe member of the house shall

1. A message delivered that same day. C. J., I. 881.

recede from the busines of the house without leave,asked and obteyned,after 9 o'clock.

ORDERED that the Speaker and whole house shall attend the King about the peticion against billeting of Souldiers.

SIR RO.PHELLIPPS: thoughe it may be safe for us to sitt; yet would have the house to resort to our pages to see whether we may not recede or noe.For the prerogative getts ground,and our priviledges loose.₁He would have the Comittee of priviledges take it into Consideracion whether we have libertie to adjourne ourselves.

MR.GLANVILL: that he never knew the priviledges of this house gett by speaking or words,but only acting.It is the undoubted power of the house to adjourne itself and make recesses,and since the King hath not sent his desire by comand (within Royall language) but by entreaty and in a language of frendshipp,he would not have us to referr this to any Comittee or speake any more.

ORDERED that a Select Comittee shall consider of the
2

1.It is interesting to note that very similar words were used in the parliament of 1601."The prerogatives of princes... may easily and do daily grow;the privileges of the subject are for the most part at an everlasting stand."Quoted by Montague(Political History of England)VII.16.

2.In Mass. MS. this order precedes Mr.Glanvill's speech. It seems more logical in the position given in Nicholas,

matter of our recesses and the priviledges thereon.

Nil plus...11 AP., 1628.

...¹APRILIS, 1628.

Speaker (in the) Chayre.

Select Committee appointed on Mocion of Coryton and Elliott to consider of the pamphlet printed, intituled: a relacion of the proceedings in parliament.² Whether it as Mr. Glanvill would hardly express himself on the question of referring the matter to a committee after that order had been given. There are one or two short speeches in this debate, given in Mass. MS. that are not in Nicholas.

1. The 11th of April.

2. Mass. MS. (p. 84) has the following passage concerning this pamphlet: "Note that a pamphlet was printed of the Duke's speech that he spake at the counsell table, and it was moved that it should be read, by Sir Jo. Elliott: I hold not the booke worthy to be read but lett it be examined by whom it was printed and by what authoritie it came out. Mr. Selden: Shall the counsells of parliament bee layed on stalls? and shall any thus divulge them? lett a comittee consider of it and who printed it and gave licence for printing of it and to send for what parties they thinke fitt. Which was ordered." The speech referred to is that made by the Duke of Buckingham, April 4th, when the Commons' grant of five subsidies was reported to the King. See Ephem. Parl., 41 and Mass. MS., 73.

be fitt to be read in the house and if they shall thinke it fitt that the house take notice of it, or any parte of it that then they shall send for any to informe them who printed it, by what warrant, and any thing else concerning it.

Speaker goes out of the Chaire and Mr. Littleton att a grand Comittee. Concerning the Comission for Martiall lawe.

SIR E. COOKE: the great question will be, when is tyme of peace and when of warre. It is certeyne that when the courts of Justice are sitting is tyme of peace, and intyme of of peace there can be noe martiall lawe executed. Moveth that the lawyers of the house may take coppies of the Comission of martiall lawe and then argue it.

A Coppy of a Comission for Martiall Lawe read in the house, directed to the County and other Courts of Hampshire, against the Soldiers or marriners or others joyning with them. Comission dated 4... Instruccions for execucion of martiall Lawe read.₁

This Busines of marshall Lawe was now declined uppon the mocion of Sir Ed. Coke: ₂ after long debate (it) was re-

1. The commission and instructions are in Mass. MS., 84-85.

2. At this point Sir Edward Coke suddenly moved that a time be set for the payment of the subsidies. This occasioned a long debate at the end of which, through Wentworth's influence, a motion was made limiting the time within one year, and agreeing that no further motion be made upon

solved by this Comitte, that...¹

12 APRIL., 1628.

RESOLVED on question, that all the Comons inhabitants of Barport² in Dorset, should have voice. Resolved on the question alsoe, that because the said Comons had (noe) notice and warning of the eleccion of the Burgesses there, that eleccion there made was voide.

SECRETARIE COOKE delivered a Message from the King: his Majestie having given tymely notice to this house as well of the pressing of the tyme as of the necessity of his Supply, and since with long patience expected some fruite of those things which happily was begun, but finding an unexpected stopping almost beyond all experience after soe good beginning, hath comanded me to signifie to this house that he now expecteth that without further unnecessary delay we proceede with his busines; for howsoever he shall be willing that his affaires and ours shall concurre and proceede together, yet his meaning was not that the one should give interrupcion to the other; nor that tyme should be spun

the subject until matters relating to the liberty of the subject were determined. Nethersole to the Queen of Bohemia, Cal. St. P. (Dom.) 1628-9, p. 73. A short debate and Coke's speech with the ensuing debate are given in Mass. MS., 25.

1. The writing is illegible here.

2. C. J., I. 882 gives it "Bridport".

but uppon any pretence.

Now for his duty to this house; He desireth this house not to undervalue this message, nor to overstrayne it. His Majestie's intencions are not to threaten us with a rupture, but to stirre us upp to goe on with our expedicion. The King heard that there was an order passed excluding his busines... pretence to put of that resolucion, uppon which the comon cause of this Kingdome and Christendome depends; and bids us therefore take heed that we doe not force him by any tedious and unnecessary delayes, to make an unpleasing end to what have soe happily begun. There is notice taken as if this house should trench, not on the abuses of power, but on power itself. His Majestie will willingly heare us concerning the abuses of power. Desires us to satisfy his Majestie that we strike not att his power but att the Reformation of abuses thereof. Beseecheth us to use that moderation in our proceedings for which this house hath had commendacion all this parliament.

SIR NAT.^tRICH: that we are all now unfitt to speake of that which most concerneth us . He is much greeved att this Message; He doubts there is some mistake which hath bene (made).¹ 2 things principally to be considered, how we may houlde his

1. Mass. MS. (p. 89) goes on with the speech thus: "I hoped our moderation would have given a right understanding to his majestie of our loyalty."

Majestie's good opinion, and the priviledges and liberties and honour Cleere. Moves we may Tuesday next take these 2 points into Consideracion. Would have the message delivered in wrighting.

SIR THO. WENTWORTH: that he thinketh the Message agreeth with the sence of this house; for when the King shall truly understand our proceedings, it will give him full satisfaccion that we are (not) for excluding his busines or for spinning out of tyme and [are] for Considering of his pressing busines. Would have Secretarie Coke enabled to report to his Majestie our proceedings here.

SIR E. COOKE: he holdes that this message may proove a very gracious Message. Would have a Select Comittee appointed to consider of and find out this unexpected stopp mencioned in the King's message, which surely is come to his Majestie by misinformation. Would have us attend the King's busines without unnecessary delays. Let there be noe delay of our partes, for we were the unworthiest men in the world if we doe not Supply him and doe the busines of the Country. And we shall goe on readily if we be not hindered by messages. The premisses of the message shall take away the for if we doe them we shall take away the accion of it . Moves that a Select Comittee may be apointed to remove the stopp, and that we may goe with the greevances.

SIR D. DIGGS: that Messages ever hinder the King's and

the publique businesses. Would have the Speaker to represent to his Majestie the proceedings of this house on Monday next, when he is to goe about other businesses to his Majestie; which should be prepared for it by a Select Comittee.¹

ORDERED and a Select Comittee appointed to consider of the heads of some answers to his Majestie's Message, which shall be delivered by the Speaker on Monday next to his Majestie; and the heads to be reported to the house.

14 APRIL., 1628.

The house sitting.

MR. KIRTON: saith the E(arle) of Suffolke did say openly that Mr. Selden had rased some Records which this house had alleged for the libertie of the Subject; and that he did deserve to be hanged for it. That this was spoken in the presence of Sir Jo. Strangwishe.

It is ordered upon question that Sir Jo. Strangwishe shall sett downe in wrighting the very words the Earle of Suffolke did thus speake against Mr. Selden, which trencheth against the honour of this house. Sir Jo. Strangwishe doth wryte downe the words; viz: Sir Jo (hn) Strangwishe, will not you hang Selden? He answered he knew noe cause. Whereon the

1. The first sentence of this speech is attributed to Sir Francis Seymour by Mass. MS. (90). There are several short speeches given there which Nicholas does not report.

Earle said: By God, he hath razed a Record; and therefore deserveth to be hanged.

ORDERED on the question that Sir Ro. Phelipps shall carry upp a Message to the lords to acquaint the lords with this tax laid on a member of this house and throughe him on this house, by the E(arle) of Suffolke; and to crave justice from their lordshipps against the E(arle) of Suffolke, for wrong donne to this house and Mr. Selden, a member of it.

SIR THO. WENTWORTH: that he heard Sir Ch. Nevill say that he heard my lo(rd) of Suffolke say as much as Sir Jo. Strangwishe hath aleged and testified. And would have us stay till too morrow before we send upp this message.

RESOLVED that Sir Ro. Phelipps shall goe with this message presently to the lords.

SIR ROB. PHELLIPPS, having delivered the Message to their Lordshipps against the E(arle) of Suffolke, bringeth this an-
 aware: The signification of the lords' desire to maynteyne and increase a good correspondency with this house and that the E(arle) of Suffolke of himself hath voluntarily protested upon his honour and upon his Soule there passed noe such words from him to Sir Jo. Strangwishe. The lord Keeper further added that by this speedy course and proceeding in this busines we may see their lordshipps' affeccion to a good correspondency.

SIR JO. ELLIOTT: that there may be a Select Comittee to make further inquiry concerning proofe of these words against

-the Earle of Suffolke; or any thing else tending to the same.

ORDERED accordingly. To meete too morrow morning att 7 o'clock in Court Wards.

15 APR., 1628.

Att a Comittee of the whole house; Mr. Littleton₁ in the Chaire. Concerning Marshall lawe.

MR. SELDEN₂: there is noe question of the King's power to grant Comissions, nor whether his Majestie hath potestas vitae et mortis; but the question is of the way of exercising this power. If such questions of the way is made in every Court of Justice₃. (1) Considers the generall nature of Marshall Lawe (2) how this lawe is in England. (3) how this lawe is to be exercised. (4) the tyme when. (5) the place where. (6) persons on whome this Marshall (law) is to be exercised. The Name of Marshall is to be deduced out of the Empire₄. In the body of

1. Mass. MS. says that Mr. Herbert was in the chair.

2. This begins a second part of a very long speech by Mr. Selden, given in Mass. MS. (97-101). He was interrupted by Sir Humphrey May, and Nicholas begins where he resumes his speech.

3. This is obscure. Mass. MS. (98-99) gives it: "the question is of the way and manner of this power which is debated every day in every court in Westminster when it is questioned."

4. Mass. MS. puts this more clearly: "they (meaning the Romans) have titles de re militaris, those lawes were at the pleasure of the Emperor or generall of the armie." p. 99.

the Greeke Civill lawe there is lex Millitaris described. Marshall law for lesse matters then life and death are by Custome₁. Antiently marshall lawe was to be exercised by the Court of the highe Constable of England. The nature of which Court is all matters belonging to warre abroad or att home were there to be exercised. Jurisdiction belonging to that Court in tyme of peace for matters abroad and some att home₂. Antiently the King never had an Army but the Constable went in the rere and the marshall ever went before. The lords lieutenants have power of ius bellii, that is, to pursue Rebels and in such Case he may put Rebels to death. He is confident that att this day in an Army marching, there can be noe marshall law exercised nor other lawe then the Comon law of England. There is noe doubt but the Courts of Constable and Marshall may hold plea of any Murther, Treasons, or such like

1. Mass. MS. (99) - "some particular lawes are by custome and have beene usually heard before the martiall and constable and that is truly and properly the martiall lawe."

2. Mass. MS. (99) - "In antient times the Constable and Martiall held a court in which all matters that belonged to warr abroad and at home was there determined, but they were such as could not be determined by the common law, they had a jurisdiction for warr at home and abroad and in time of peace they had no jurisdiction but noe person could be subject to their jurisdiction but in time of warr."

comitted beyond Seas. And 1.H.4, this power was exercised.

7.H.4,₁E(arle) of Northumberland and the E(arle) Bardolf were charged with treason donne in Scotland and France. There was a Comission granted to particular men to exercise the power of marshall lawe, as the Constable and marshall of England, on Perkin Warbeck, who taken and held as an Enemy, and had comitted exorbitant Crymes.

The exercising of Justice in Westminster Hall is a great signe of peace, but there may be warre when the Courts att Westminster sitt. Wheresoever the sherif of the Country may serve and execute the King's writt, in that place there is peace; and where the sherif Cannot execute the King's writt, there is noe peace for that place. Tempus bellii is where that lawe cannot be exercised. 13.R.2₂, and 1.H.4₃, are the only Stat-

1. Henry, Earl of Northumberland, and Thomas, Lord Bardolf, were impeached in the parliament of 7.H.4 for high treason; and were condemned to death. They were slain in the course of a rising in Yorkshire the same year. Old Parl. Hist., II. 107.

A complete account of the case is in Rolls of Parliament, III. 604-7. (6 Vols. Printed in 1777 by order of the lords.)

2. 13.R.2, cap. 2. Statutes of the Realm, II. 61-2.

3. Reads as follows: "Provided alway That the Constable and Marshall of England for the Time being, (in) their retinue of Knights and Esquires, may wear the said Livery of the King, upon the Borders, and Marches of the Realm in Time of War." ibid. II. 113.

utes that give power to the Courts of Marshall lawe, of the Constable and Marshall. There can be noe Comission granted to execute any man according to the Civill lawe....H.4: the Vice Chancellor did by a Comission judge according to the Civill lawe;^{and} after, this judgement was questioned and declared voyde, and the Comission annihilated. Which shewes that there can be noe Comission granted to execute any man by the Civill Lawe. The Cannon and Civill lawe or Admiralty are lawes that are inforced by the lawes of the land, but they are not the Lawes of the land. Nullas hoc destructur nisi pro legem terre et pro iudicium parrium suorum. 5.E.3, Cap. 9₁, noe man shall be judged to loose lief or limbe but by the lawe of the land. Noe man can be judged but he must be heard.

When a petition is delivered by our house and answered by the King, it after passeth both houses. 2.H.4, num. 99, Rot. parl... Concludes that whatsoever offences are comitted, are to be tryed or punished but by the Comon lawe and in the King's Bench, or by Comissions of Oyer and (Terminer). 15.E.2, Tho. E(arle) of Lancaster₂, being in rebellion, was taken;

1. Statutes of the Realm, I. 267.

2. "Thomas, Earl of Lancaster, first cousin of King Edward II., had been one of the chief opposers of that King's misgovernment, and his favourites Gaveston and the Depencers. He repeatedly took up arms against the King, and finally, in 1322, was taken at Boroughbridge, and being impeached of treason,

His peeres by Comission sate on him by marshall lawe. His
 somme, 1.E.3, doth assigne the errours of the judgement: that
 his father was judged in tyme of peace, for the Courts did
 then sitt and every man might have had justice in that place.
 This is entered pasche. 39.E.3, Rot. parliament. 20, R.2, and
 1.H.4, Hacsea¹ exhibited an undutifull Bill to the lords in
 parliament; the King and lords sitting, arraigned this Hacsea

etc., before the King at Pontefract" was executed. Cobbett's
 State Trials, I.39. In 1.E.3, the judgement was reversed at
 the instigation of Henry, his brother and heir (not his son,
 as Nicholas says) for the following reasons: "the aforesaid
 earl Thomas was by record of the lord the king as aforesaid,
 in time of peace, erroneously sentenced to death without
 arraignment or answer, or the lawful judgement of his peers,
 against the law" etc. *ibid.*, I.46.

1. Thomas Haxey, a clerk sitting in the House of Commons, in-
 troduced a clause into a bill, in 20.R.2. The clause was
 aimed at the extravagance of the Court; and gave great of-
 fence to the King. Upon the demand of the King, Haxey was
 tried for treason and condemned to death. The Archbishop
 of Canterbury claimed benefit of clergy for him and he was
 not executed. See Old Parl. Hist., I.482-4. See Rolls of Parl.,
 III.339, Nos. 14 & 15 for the objectionable clause. In 1.H.4,
 the judgement was revoked. Old Parl. Hist., II.51.

and adjudged, but he was not put to death. 1. Hen. 4, he exhibited a petition that he was adjudged contrary to lawe. The Comons passed a Bill, that whereas Hacsea had bene adjudged contrary to lawe...and it passed both houses.

Cambden's Annalls, that 15. Eliz., one Burkett¹ had gotten new opinions of Religion,² and his Religion was that he thought he might kill any man that was not of his opinion: the Queene did presse to have this Burkett executed by Marshall Lawe, but none was willing to doe, and at last, she pressing it, the Judges did all with one Consent deliver their opinions that there could be noe marshall lawe executed by Marshall lawe, for in E. 2's tyme all men were as Soldyers, though not by way of presse yet by tenure and Covenant. There is a protection called protectio profecturibus by which any man, if he have any Case depending, whether civill or criminall, shall have his proteccion during the . Justice of Peace... noe Marshall lawe can be exercised by the Courts of the Constable, or marshall or by any Comission. And that noe Souldyers can be exempted by being a Soldyer, from the jurisdiction of any other Court.

MR. SOLLICITOR: 6.H.8, Kellie's Reports; Lord Zancher's

1. An account of this matter may be found in Strype's Annals of the Reformation under Queen Elizabeth, Bk. I. 288-9. (Oxford, 1824-Vol. II., Pt. I., 426-9.)

2. William (1551-1623) was an historian, much esteemed by his contemporaries. The work here referred to is entitled: "Annales rerum Anglicarum et Hibernicarum, regnante Elizabeth."

Case: Resolved, in Coke's Reports by the 3 Cheif Justices,
²whereof Coke was one, the lord Zancher's man killed Turner
 and fled; the lord Zancher being but an accessary could not
 be proceeded against till the principall were apprehended,
 and thereupon King James did use his absolute power and
 sent for Zancher's man, and being brought over, then he and
 his lord were both hanged. This shewes it is necessary for the
 King to use his absolute power when it is for our good and
 without profitt or end to his Majestie.

SIR E. COKE₁: the question is not of the King's power to
 grant Comissions of Oyer and Terminer but of the forme of it.
 The Constable and Marshall are judges of marshall lawe. The
 Comissions of Martiall law now granted are not as antient
 Comissions. 13.R.2, stat... whereby the Constable and mar-
 shall's power is declared. We doe not question the King's
 power, but regulate it.

16 APRIL., 1628.

Att the house.

RESOLVED and ordered uppon question that there shall
 be 20 markes bestowed in plate to be equally given to doc-
 tour Burges and Mr. Dike who preached before the house the
 house the day of fast and 10 ^s to the ministers of the Church

1. In Mass. MS. this speech of Sir Edward Coke's forms a part
 of Mr. Solicitor's speech. Probably Nicholas is correct in at-
 tributing it to Coke.

2. Robert Creighton, Lord Sanchar, a Scotch baron, incited Robert
 Carliel to kill John Turner. See Coke's Reports, 9 Co. Rep. 114a-
 122a.

of St. Margaretts, the rest to be distributed to the poore by the Comittee and to the Gatehouse, Fleete, and Marshalsey.

A Select Comittee appointed to examyne the complaints delivered against Mr. Jo. Mohun whereby the Knights and Burgeses for Devon and Cornewall and others...¹

SECRETARIE COKE² that this repeticion is not greevous but agreeable to his duty: repeats what we assured his Majestie of our affeccion to his busynes, and person and given his Majestie such assurance thereby as we have assured thereby: the King hath likewise tolde us of his resolution to yeelde to all our reasonable requests: it is reported that the King seekes to oppresse his Subjects, and his Subjects doe murmur

1. See C.J., I. 874, 884, 886, 888.

2. There is evidently something omitted here. There is the following introduction to this speech in Mass. MS. (102) - "Give mee leave to renew a motion that I formerlie made, lett me say that this repetition is agreeable to my dutie." There is a briefer report of this debate in Rushworth, I. 539, which dates it the 14th. Meade to Stuteville, Court & Times, I. 341, puts it on the 15th. C.J., I. 884, has the following entry on the 16th - "Mr. Sec. Coke moveth for Opening that stop, that is amongst us, concerning his Majestie's Supply." From this I judge that Nicholas has the correct date. Cooke's plea had no effect and the House went into committee to discuss martial law further.

against him, and this dayly improved by the enemyes of the State, and this stopp here increaseth this rumour, and hindereth the Resolutions which are to be given to Armies and their Treaties; the preparacions for the defence: besides we expect to have an ease of the Soldiers which must be donne by employing them abroad or disbanding them and cannot be donne without money and our resolutions here: desires us to remove this stopp, and that we may goe on cheerefully and speedily.

MR. WAYNSFORD: the Suply and our greevances are to be one joint act, and therefore he moveth that we may goe on with the grand Committee to perfect our busines and that will advance the King's busines.

SIR THO. EDMUNDS: that it is not the particuler ends of the King, but the pressing arrears of the State; and desires us therefore to goe on.

MR. CHANCELLOR of the DUTCHY.: that sweetenes, trust, graciousnes, and mildnes doe alwaies best in parliament and that cold, hesitacion, harshenes, etc. doe never good in parliament. If this parliament doth succcede well he cares not what becomes of him; he moveth that we would move a little in the King's busines to take of the rumours of the world; and cleere to all men that we are forward in the King's busines and there is an absolute harmony betweene the King and his people.¹

It is resolved that the Speaker leave the Chayre. Mr.

1. Mass. MS. (103) gives two other short speeches to the same effect as the preceding ones.

Dittleton in chaire att a grand Comittee concerning Marshall lawe.

MR.BANKS₁:He will not derogatt from the King's prerogative,King's have their prerogatives and Subjects their liberties,but the Crown hath his landes: that a Comission of Marshall lawe duly issued doth not silence the Comon lawe; the question is now whether Comissions for Marshall lawe may be awarded in tyme of peace: and he is of opinion there ought noe such Comissions in these tymes to be awarded,and if such are issued they are against lawe.The Comon lawe and Statutes are the judge of all Comissions and Courts,and hath power to regulate the Comissions of marshall law and of the marshall's Courts,reasons why Comissions for marshall lawe...The King by his Comissions under the great Seale of England cannot alter the Course of the Comon lawe,but such Comissions of marshall lawe are against the Comon lawe:ergo Probat.Maior(?) 29.H.7,fol.34 and 40- 7.H.7,fol.40- 11.H.7,fol.11 - 16.H.8, fol... The King cannot grant that an alien borne shall be heire to his father.

Of he findes that such things as by the Comon law are but petty trespasses are by these Instruacions,death...

2.E.3,Cap.2:₂the Commissioners of Oyer and Terminer should

1.John Bankes,Esq.,M.P. for Morpeth Borough,Northumberland.
Members of Parliament,I.476.

2. Statutes of the Realm,I.257.

be great persons of quallity.

13.R.2, fol.2 - statute...8.E.4. - 24.H.4.₁ We have noe tymes of warre, for the Courts of Justice are open in all partes. 9.E.3, fol.556 - 4.booke Cap.3 of Bracton₂ tells when warre and when peace. Reasons why those Comissions are against the lawe. 18.E.3, Cap.1₃ ordeynes that Comissions of New inquiry should cease. 25.Ed.3₄ - 28.E.3₅ that noe man shall be put to death without due answeare. 1.H.4, (Cap.)14₆, in case of forraine appeall. 37.H.6, fol.20, noe appeall will lye. In respect it is a Comission of New inquiry it is a Comission against the Comon law, it is a Comission to judge a man otherwise than according to the lawe₇.

1. Statutes of the Realm give no statutes later than 13.H.4.

2. Henry Bracton (d.1268) an ecclesiastic and judge, author of a comprehensive treatise on the law of England.

3. Statutes of the Realm, I.300.

4. 25.E.3, cap.4. *ibid.*, I.321.

5. 28.E.3, cap.3. *ibid.*, I.345.

6. 1.H.4, cap.14: "It is ordained and stablished from henceforth, That all the Appeals to be made of Things done within the Realm, shall be tried and determined by the good Laws of the Realm, ...and that all the Appeals to be made of Things done out the Realm, shall be tried and determined before the Constable and Marshall of England for the time being. *ibid.* II.116

7. Mass.MS. (103-104) gives this speech more in detail, and adds two others.

17 APRIL., 1628.

Speaker sitting.

MR.HACKWELL:reports,that the case of the eleccions of Knights for Yorkshire wherein Sir Jo.Savill,Comptrouler of his Majestie's house,did peticion against Sir Tho.Wentworth, was thus in question whether such freeholders as were to give their voices for Knights were,when they came to the pole,to tell their names or not.That the Comittee resolved that if any elector or freeholder of any Knight of the sheire be demanded by the sherif his name,he may choose whether he will tell his name or noe and that this doth not disable him from giving his voice.And that Sir Tho. Wentworth and Mr.Bellasis are well chosen.

SIR JO.ELLIOT:reporteth the busines concerning the Earle of Suffolke.2 things (1) examinacions (2) resolucions.

Examinacions:(1) generall,concerning the words spoken by that great Earle.(2) particular,words spoken to Sir Jo. Strangwishe.

That Sir Ch.Nevill being examined by the Comittee saith that on Satturday last,he being att the Comittee of the lords,the Earle of Suffolk said Mr.Attorney hath cleered the busines, and added that Mr.Selden hath razed a Record and doth deserve to be hanged and that the lower house should doe well to inquire with the lords in a peticion to the King to hang Mr.Selden for he tooke a course to divide the King and his people.That Sir Ch.Nevill said he

thought the Earle of Suffolk meant not only Selden's act of razing but his other carriage alsoe in the businesses of this house.

One Mr.Littleton₁ heard the Earle of Suffolk said he would not be in Selden's case for 10,000 £ and that he deserved to be hanged.

Concerning the particulars of Sir Jo.Strangwishe hearing those words;first it appeares that the words in the same syllables were spoken by that Earle to others;it is prooved by Sir Geo.Vane and Sir Ol. St.John,did see that the Earle call(ed) Sir Jo.Strangwishe to him and spake with him. It is prooved alsoe that Sir Jo.Strangwishe did turne about presently to the Earle of Hertford and tould him what the Earle of Suffolke had said to him.

Resolutions of the Comittee for this busines;and first in the generall:

1.They are of opinion that the Earle of Suffolke,notwithstanding his deniall,reported to this house,hath laid an unjust and scandalous imputacion and aspersion uppon this house in those words against Mr.Selden.

2.That they beleeeve that those words,notwithstanding the deniall of the Earle,were spoken by him to Sir Jo.Strangwishe.

1.Perhaps this is Mr.Thomas Littleton,M.P. for Leominster Borough,Hereford.Members of Parliament,I.475.

3. That these particulars should be ^{re}presented to the lords and that the Earle charged againe att the Barre; and to crave justice of their lordshipps against that Earle for the same.

1. RESOLVED on the question by the house, That the Earle of Suffolke, notwithstanding his deniall, hath laid a most unjust and scandalous imputacion on Mr. Selden, a member of this house, employed in the service of the house, and therein upon the whole house of Comons.

Also resolved on the question -

2. That this house is fully satisfyed upon due examination that Sir Jo. Strangwishe, notwithstanding the Earle of Suffolke's deniall, hath affirmed nothing but what is most certeyne and true.

Alsoe resolved on the question

3. That these particulars and the addicions shall be againe presented to the lords and the Earle of Suffolke be further charged att the Barre and that their lordshipps be desired to proceede as in justice they shall thinke fitt and to inflict such punishment on him as soe highe an offence against the house of Comons doth deserve.

IT is ordered that Sir Jo. ELLIOT shall presently goe upp to the lords with the resolucions of this day and the examinacion taken in the busines against the Earle of Suffolke. And resolved that he shall name as many lords as were witnesses to be present: Earles - Lord Nottingham, Essex, Hertford, Saltsbury, Sussex, Sir Tho. Nevill.

The lords send a message to us by the lord Chief...¹signifying that their lordshipps desire us to bring the Conference now betweene the two houses concerning the libertie of the Subject to a good conclusion, doe desire that wee would cause a Bill exhibited into this house in 19. Jacobi, mense Maii², concerning an explanacion of the Character of Magna Charta and the Clerk's booke of notes for that tyme may be brought to the Comittee, that their lordshipps may therein see the debate and opinions of that busines.

SIR E.COKE: that it may be, on debate on that bill, himself or some other might advise the house not to proceede with that Bill, and that we might (not) advise well on Poyning's case though he beleeveth that case makes nothing a-

1. "Lord Chief Justice of the Common Pleas and Baron Trevor." C.J., I. 885.

2. C.J., I. 885 gives 18. Jac. Nicholas is correct however. On May 5, 1621 a bill was read for the second time, entitled "An Act for better Securing of the Subjects." The Act was occasioned by the numerous false imprisonments at the time. C.J., I. 609-610. Proceedings and Debates of the House of Commons, 1620-1621, II. 25-6 gives a speech of Sir Edward Coke on this bill, during the course of which he said: "a man committed by the Body of the Privy Council may not be bailed, as hath been resolved by all the Judges of the Kingdom: That it is inconvenient and may be dangerous to have in a Busines of State the Reason expressed in the Mittimus."

gainst us;but whatsoever shall be written there may be lapsus lingua of him that spoke or lapsus penna of the Clerk. Besides it will be very disadvantageous that any notice of debate of matters here should be binding to the house, whereas orders made by the house doe not tye us.

The house resolving by a tacite consent that we would not send upp that Bill or the Clerk's booke;did answere the lords' Messengers,That the house had taken their lordshipps' message into consideracion and would in convenyent tyme send the lords an answere by Messengers of our owne.

ORDERED that Mr.Secretarie Coke shall goe with the message to the lords to signify to the lords that there was noe Resolution in the Case mencioned in their Message;and the entries made by the Clerk are things of great uncerteynty, and have bene att first donne without warrant and since the taking of such Notes,have bene rejected,and in that parliament particularly comanded to be left:and therefore the house thinkes it not fitt to produce the Clerk's booke.

ORDERED that a Select Comittee shall servey the Clerk's Booke (every Satterday in the Comittee Chamber) to see the Notes then taken and the orders of this house;but not to alter any order,thoughe defective,till they have first acquainted the house therewith and have warrant for it from the house.

ORDERED that a Comittee of all the Lawyers of the house is appointed to prepare a Bill for Repeale of Statuttes;and

Mr.Noye is to bring in to this Comittee the Bill prepared for this purpose the two last meetings in parliament.

An Act for free libertie to marry att any tyme or season of the yeare.1.lectio.

18 APRIL,1628.

Speaker in Chaire.

SIR ED. COKE:bringeth in a Record into this house and leaveth it here,which is a Recorde of 46.E.3₁, - Sir R.PEM-bridge being lord warden of the Cinque Portes was by the King comanded to goe to be lord deputy of Ireland;refused it,was not comitted,but propter ingratitudinem et inobedientiam suam and because he had lands and offices given him propter servicia im et imp all his lands and offices were seized by the King,and another was appointed to be lord warden. Soe as by this we see the King may punishe a man for refusing forraine imployment.

Att a Grand Comittee;Mr.Littleton in the Chaire.Concerning Marshall lawe.

DR.EDEN₂:that there are Comunia delicta et Militaria delicta;Comunia delicta are another fellony etc.,are to be punished by the Civill Magistratts.Militaria delicta,as sel-

1.C.J.,I.885 dates the record 36.Ed.III.,"concerning foreign employment." Mass.MS.(108) has 46.E.3.

2.Thomas Eden,LL.D.,a Master in Chancery. M.P. for Cambridge University.Members of Parliament,I.474.

ling armes, striking of an officer, discovering the watchword etc, those are fitt to be punished by marshall Lawe.¹

SIR HEN. MARTIN: If there be companies of Souldiers in pay under officers, they must have marshall lawe, but none but Souldiers ought to be executed. Wee are to decide whether marshall law ought to be executed where there are Soldiers in pay and under officers: his opinion is they are to have marshall law accumulative ^{not} ~~and~~ privative, that is, the Souldiers must be subject aswell to the Comon magistratt, as to the Marshall Law; and this marshall law is not to apperteyne to Soldiers in habita, those that are soe by tenure, but to those that are in Acta and in pay and under comand. The execution is lawfull where the Sovereigne and State shall hould it necessary; and then the execution of this lawe is not prejudiciall to the comon lawe: and he thinkes there needes noe new lawe for this marshall lawe. It is an old saying silent leges inter Arma, and the lawe then calls to be defended, not to be he~~ar~~d. 4. & 5. Phil. and Mary; that when Soldiers are in any company they are to be punished according to their discrecion. A Chirurgion doth not nor ought to let a man('s) blood but in the mo^{ve}ving and fasting, but if there be necessity he doth and may lett a man('s) blood

1. Mass. MS. gives this speech as a part of a long one by Mr. Rolles. Mr. Eden is not given as taking part in the debate at all.

and other tymes. It is impossible to provide a lawe for all Marshall cases. Warre hath many degrees: first, in preparacion for Conductors of Soldiers, then in expedicions, then in project ready to joyne in battaile. And marshall law ought to be executed but in tyme of warre, that is, in warre or in any degrees of warre. It is true that the Comon lawe provides for all faults and occurrences, but it doth not in convenient tyme. Marshall law is necessary in 3 respects: (1) in respect of the Soldiers that may offend for if they be punished soe slowly as the comon lawe directs they care not. (2) if the Soldiers offend us. (3) in respect of their officers, for else they will never be obedient to them.

The end and scope of the comon law is the proteccion of every man for wrong and injury, preservacion of us and our goods: and if this lawe cannot doe it then we must have something that must doe it. There may be abuses of marshall lawe, it may be directed to more then is fitt, to those that it is not fitt, with articles not fitt, but this argues not that therefore the Marshall lawe is unfitt when Soldiers are in pay.

MR. NOYE₁: that marsh^{all} lawe may be executed in tymes of warre uppon the Army and in an Army: the Courts of Justice att Westminster being open doth not shew that then is

1. William Noye, Esq., M.P. for Helston Borough, Cornwall. Members of Parliament, I. 474.

tyme of peace. The tymes of warre are sett downe in the roll booke in the tyme of H.3 and yet the pleas were open. It is parte of the marshall lawe to heare any man before he be condemned, That all the olde Comissions of marshall lawe were de quibus de Exercitu in Exercitu. Concerning the present Comission of Marshall, there be 60 articles whereby 40 are written in blood and 20 are proper for an Army. The Comission is too large, for the Soldiers and Marriners and others joyning with them; and it is unfitt there should be the same lawe for Soldiers and Marriners, for the marriners are governed by the lawe of Soldiers: but the addicions (and others adjoyning to them) is more then ever was in any other or antient Comission of marshall lawe.

The Comissions of Marshall law made in this manner without a due publicacion of the same, and the Articles to be executed where there is noe body of an Army, and where other Comissions might be executed, is not allowed by the lawe of England; for that lawe should be principally executed where there is an Army and on the men of the Army.

SIR E. COKE: 13.R.2₁, all things that must be punished according to the lawe. Pasche. 14.E.3, Whether the land be in warre or noe is to be tryed by the King's Records of Courts, not by Jury or by any other meanes, etc.—this is a resolution of all

1. Chap. II. Jurisdiction of the Constable and Marshal. Chap. V. Jurisdiction of the Admiral and his deputy. Statutes of the Realm, II. 61.

the Judges.1.H.4₁,all appeales shall be tryed by the good lawes of the Realme. 13.H.4,fol.5,two men went into Scotland and there fought,and he that killed the other was tryed by marshall lawe by the Constable and marshall and there hanged. 5.H.4,parl.roll₂,the King cannot enlarge the Commission of the Constable and marshall and noe Comission can give power to exercise a power that is not in the originall power of such Court.Soe,as he concludes,the Comissions of marshall lawe are against the lawe,because the same is against others then Soldiers and in tyme of peace.₃

19 APRIL.,1628.

SIR DU.DIGGS:Concerning the Confirmation of the sale of the King's mannor of Bromfield Quele in the County of Denbighe,saith that he hopes to see an Act of Resumpcion especially since soe often in this house there have bene declaracions against buying of the Crowne land:desires therefore that this Bill may not passe.

MR.GLANVILLE:that this is not a purchase of a private man but it is the purchase of about 2 or 3000 men and is of an extent of more then one whole Country,and the poore men

1.1.H.4,cap.14.Statutes of the Realm,II.116.

2.Rolls of Parliament,III.539-540,Nos.61 & 62.

3.This discussion of martial law is not in Old Parl.Hist., Rushworth,or Ephem.Parl. Mass.MS. gives it more in detail - and adds two short speeches.

have paid for this land (more) then the true vallue;and that they had Before this last composicion a good tytle,in his opinion,against the King;but because their title was daily questioned,they yeelded to give a new composicion for it soe as they might have a good and cleere tytle;and for it have paid one half of their money in hand:would have the Bill amended and passe.₁

Chrt.Levett's petition for New England,albeit that busi-
nes is passed the privy Seale and reddey for the great Seale,
yet this house hath rejected the petition,being it is for a
generall colleccion for that Shire.

Mr.Littleton in the Chayre att a Comittee.

SIR JO.JEPSON₂:that in Queene Elizabeth's tyme he was
a Captain of some of the Souldiers that then went for Ire-
land.That Sir Nic.Parker was sent to comand all those troopes
and there being many complaints of the abuses of the Souldiers,
whereuppon Sir N.Parker,assembling of the Comanders of these
troopes,did condemn and hang some of the disorderly Soul-
diers;and yet there was then noe Comission of Marshall

1. C.J.,I.886,says there was "much dispute about it,pro et
contra" and there was no resolution made.These two speeches
are not in Old Parl.Hist.,Rushworth,or Ephem.Parl. Mass.MS.
gives a brief account of the affair.

2.Sir John Jephson,M.P.for Whitechurch Borough,Southampton.

Members of Parliament,I.477.

granted to them for that purpose;and Sir Nic.Parker had thankes for it of some att Court.₁

MR.CORRITON: that Sir Ni.Parker,it is true,did without Comission condemne and execute some Soldiers;but he had a pardon for it. 13.E.2,1 pasch.,a Comission for determyning the abuses and disorders of Soldiers;which Comission is directed to the Steward of the King's house and one Stapleton. 1.E.3.,Rot.Scot.,To Henry,Earle of Lancaster,to make inrode into Scotland,to heare all complaints,to execute marshall lawe according to his discrecion;which Comission is to endure during pleasure;but this is not a direct Comission of marshall lawe. 11.E.3,Rot.Scot.,num.25;Comission to the ...of Arundell and ... de Montescue,to punishe all faults in the Army.₂

ORDERED that a Select Comittee of all the Comon and Civill Lawyers,the Soldiers of this house,shall prepare this busines of marshall lawe against Monday.₃

21 APRIL.,1628.

An Act concerning appropriacions and vicaridges.2.lectio.
This Bill is comitted to the Comittee of Religion.

SIR D.DIGGS reporteth that the lord keeper att the great

1.This speech is not in Mass.MS.

2.Mass.MS. gives only the first part of this speech to Mr. Coriton.The first two precedents are cited in a speech by Mr.Selden,and the third by Sir Henry Martin.

3.This order has been crossed out in Nicholas.

Conference₁ said; that the Judges did all declare that the great Charter of England and the 6 Statuts subsequent are still in force. That there was noe entry made nor to be made of the great busines of the habeas Corpus in the King's Bench, but only an ordinary entry of Remittitur quo and that was that Curia ~~avis~~^{are} vult.

MR. LITTLETON'S report: that there hath bene nothing said att the conference with the lords concerning personall Libertie of the Subject that can or doth contradict the declaration made on that behalf by this house to the lords.

MR. SELDEN: Jo. de Billdeston Case₂, it appears by the record that he was comitted by the King and delivered uppon a habeas Corpus. 35. H. 8, Jo. Binck's Case₃, that he was released. Overton's case₄, 2. and 3. Phil. and Mary; was released. Tho. Lawrence', 9. Queene Eliz. 5, that he was bailed, being comitted by the Councell. Constable's Case, 9. Eliz. 6. Jo. Browning's Case₇

1. On the 16th & 17th the Lords and Commons had held a conference on the liberty of the subject, in order to carry further the matters disputed in the first conference.

2. See Cobbett's State Trials, III., precedents p. 110; arguments pp. 98, 134, 135.

3. *ibid.* III., precedents p. 111; arguments pp. 98-9, 137.

4. *ibid.* III., precedents p. 112; arguments pp. 99, 137, 138.

5. *ibid.* III., precedents p. 113; arguments pp. 100, 138.

6. *ibid.* III., precedents p. 113; arguments pp. 100, 138.

7. *ibid.* III., precedents p. 113-4; arguments pp. 55, 100, 138.

was comitted by the Councell and was bailed by Cheif Justice Wraye. Harcourt's Case₁, 40. Eliz., being Comitted by the lords, was bailed. 43. Eliz., Robert Catsbye's Case₂, bailed ~~at~~ supra. Beckwith's Case₃, 12. Jac., was bailed and it was only alleaged that the King would agree that he should be bailed. Sir Tho. Monson's Case₄, being Comitted by the Lords, was bayled.

Presidents of Records presented on the King's parte for Comittments.

39. Eliz., Lawrence Broome₅, it apeares the Lords gave order that he should be released. That thoughe such order were given by the lords, yet if it had not bene given, yet the Judges would have bayled him and ought to have donne soe. And this answere satisfyes all the 5 first presidents alleaged by Mr. Attorney on the King's parte. 8. Jac., Tho. Caesar, being Comitted and remittur marescallo... 12. Jac., Demetrius' Case₆, a Brewer.

SIR ED. COKE: reports the Reasons of our declaracion of

1. See Cobbett's State Trials, III., precedents p. 114; arguments pp. 56, 101, 138,

2. *ibid.*, III., precedents p. 114; arguments pp. 101, 138.

3. *ibid.*, III., precedents p. 114; arguments pp. 56, 101, 138.

4. *ibid.*, III., precedents p. 113; arguments pp. 11, 47, 56, 101, 139.

5. *ibid.*, III., precedents p. 117; arguments pp. 55, 103.

6. *ibid.*, III., precedents p. 119; arguments p. 106. Desmaitres.

7. *ibid.*, III., precedents p.

personall libertie. That the Attorney said att the Conference there was an incompatibillity betweene a Monarchy and what was alleaged by our house. Resp. That the lawe and to live by the lawe is the lief of the Empire. The reason of Comittment of the Children of a notorious Traitor (as of Tiron in Ireland) is because that these Children cannot put in sufficyent Bayle for the good behaviour. 33.E.3, the lord of a villaine may imprison a villaine but cannot give warrant to another to doe it, Bracton 105; 2.E.3₁, the King cannot fine. 18.E.3₂, is playne for the libertie of the Subject.

That Serjant Ashley did tax us with five damnable faults: (1) that our conclusions of ours did rather tend to an Anarchie then a Monarchy.

(2) if this be yeelded, it is to put a sword into the King's hand with one hand and take it out with another.

1. This possibly refers to Chap. X which reads as follows:

"Whereas King Edward, Father to the King that now is, did pardon his People of Issues and Amerciaments, that were forfeit till the twenty year of the Reign of his Father, Grandfather to the King that now is; The King for ease of his People, hath pardoned all the Fines that have been made in the Chancery, for to have Writs till the XX. year aforesaid." Statutes of the Realm, I. 259.

2. Chap. I. Comissions of new Inquiries repealed: etc. Chap. II.

Keepers of the Peace. Chap. VII. the Court of the Marshalsea.
ibid., I. 300-1.

(3) that we must allow acts of State or else the King must rule without a Constable or without authority.

(4) that this question is too highe a question to be determined wherein the Conquered and the Conqueror shall both reape irreparable losses.¹ Puts this case, that if the King demand a loane and the Subject denies it which is a highe contempt and will yet have this returned in the habeas Corpus.

Therefore Sir E.^O_A Coke moveth we may desire a Conference with the lords. That the Judges, for ought he seeth, comply with our opinion.

SIR JO. ELLIOT: that the lords have censured Serjant Ashley for a highe offence against the King, against the lords, and against our house, and have comitted him to their usher till further direccions.

RESOLVED that the declaracion of the Judges shall be, on the late case of the libertie of the Subject, of the manner of their proceedings therein in the King's Bench... That the addicion of what was alleaged by the Comons att the Conference²..

1. Mass. MS. 115 goes on - "5. This raised upp dust in all our faces"

2. These last two entries are not clear. C. J., I. 886, as follows:

"The declaration of the Judges, in the Lords House of their proceedings in the King's Bench upon the Habeas Corpus, brought by Sir Jo. Heveningham, referred to the consideration of the former committee, for searching of records, how the same may be best entered for the service of the House.

22 April., 1628.

An Act for explanacion of the statute of 3.Jac. intituled
An Act for better discovering and suppressing of popishe Rec-
usants. 1.lectio.this day and 2.lectio.the next morning.

MR.WAINSFORD:that we would send a message to desire a
Conference with the lords before their lordshipps take those
resolucions₁ which they have receaved from us concerning our

"The addition of Mr.Attorney's opposition to our arguments
and the reply to them to be inserted into the body of the re-
port to be made from the Gentlemen employed."A full report
of the conference is in L.J.,III.746-763.

1.The four resolucions of April 3rd. Meade to Stuteville,
Court & Times,I.348-9 - states that the main points at issue
were resolved a second time by the Comons on the 21st after the
report on the conference,and a message to that effect sent to
the Lords with the addition "that although they were well per-
suaded of their lordships' good inclinations to these propo-
sitions of theirs,yet they thought it fit to entreat their
lordships,that if any doubt or scruple did yet remain in any
one of their lordships' minds,they would make it known in a
conference,and the Commons would give them full satisfaction."
This is the occasion and purport of this unfinished speech by
Mr.Wandesford. Neither C.J.,L.J.,nor Mass.MS.gives any basis
for the statement that the points were again resolved on the
- 21st,tho a message concerning the earlier resolutions was sent
to the Lords.

liberties. If their lordships doubt or are not satisfied in anything concerning the same...

It is resolved on question, that we shall presently send a Message according to Mr. Weynsford's motion to the lords, and a Committee is appointed presently to thinke of a Message to this purpose.

The lords' answer to this Message was that they would send an answer by messengers of their owne in Convenient tyme.

An Act for the more due election of Knights, Cittizens, and Burgesses to serve in parliament. That none but inhabitants, resiants, and householders that pay lot and Scot should have voice in electing of any such Knights, Cittizens, and Burgesses. 2. lectio. This Bill is rejected.

An Act for the further punishing of adultery and fornicacion. 2. lectio. This Bill is Comitted.

Mr. Littleton takes the Chaire att a Committee of the whole house. Concerning Marshall lawe.

MR. NOYE: would have us to resolve on the question (1) whether this Comission of Marshall lawe, now in practise when the soldiers are billitted, be not against lawe; which he thinkes it is. (2) what Comissions may be fitt.

MR. SECRETARIE COKE: that the Marshall lawe is the very originall of the Right of Kings; for Kings are God's Captains. The name of King is a sacred name, and signifyes in some languages the Bishops of Kingdomes. The marshall lawe is parte of

an essentiall lawe of the Kingdome;we all sweare that the King is surpreame governor of all lawes,and the Comon Lawe is not the only lawe of the Kingdome.In Westminster Hall, there is,aswell as comon lawe,the lawe of equity,and there must be likewise a concurrency of Marshall lawe;all marshall lawe is not in the jurisdiction only of the Constable and marshall lawe:the lawe is parte Civill and parte marshall,and is not governed by the Constable;but it is the lawe of Oleron whereby the Admiralty governed and regulated;An extraordinary Jurisdiction of marshall lawe is necessary both in Sea and land service;his reason for the Sea,is for that the Sea service is governed by Comission and Instruccions. The Militia in tyme of peace is for land;and where the Comon lawe cannot give punishment or reformation there,it is to be supplied by the another lawe.When there¹is a preparacion of defence or offence,which cannot be made but by giving way by degrees to Marshall lawe;but he would not have the ordinary way of the Comon lawe excluded,but where that comes short it must be supplied by Marshall lawe.The faults in warre are not personall as in peace,but it concernes of the setting of an Army,or a Castle,or garrison.Wisheth that we should leave the generall to question whether marshall lawe may be executed,and to fall into Consideracion of the particular fact of the present Comission of Marshall lawe:that our very question of this hath brought alreddy many disputes: to Consider whether the Comission for marshall have not

1.A place in the duchy of Aquitaine which gave its name to a code of maritime law.

tended to the preservacion of the quiett and peace of those Countries whither such Comissions have been sent. Wisheth that a Subcommittee may be appointed of the faults of these Comissions and a meanes for reformation of it; and that we will decline meddling with the point of power in this busines.¹

23 APRIL., 1628.

Mr. Speaker in the Chaire.

SIR TH. WENTWORTH: would have us send a Message to the Lords to desire that the Judges may deliver their opinions of those fundamentall points of our liberties which we have sent upp before a Committee of both houses.

SIR D. DIGGS: that this great question is of such consequence as that he would not have it to be soe farre determined by the Judges; and we have alreddy desired of their lordshapps a conference with them if there be any doubt in anything amongst them.

SIR FR. SEYMOUR: that diverse of the lords of the upper house are parties in the great question of the libertie of the Subject, for their goods have bene to the warrants for the comittments lately past, and complained of; and would have us to crave that they might not to have voice in it.

MR. CORITON: would not have the new lords which have bene in this house and given their voices with us to be permitted

1. Mass. MS., 117-118, gives a debate following this speech of Sec. Cooke's.

to give their votes against what they have here agreed unto; and would not have any proxies allowed in the upper house.

MR. LITTLETON: would have none of all these questions. The lords Councillors are not charged by us; the Judges, he is confident, will be of our opinion. He desires that all these questions may dye.

ORDERED that there shall be a Colleccion from every Knight of the sheire, 12 s.; and from every Cittizen and Burgesse, six shillings for payment of the Clerk of our house and for diverse Clerks and officers of Records for searching of records and Coppies.¹

1. This collection usually came at the end of the session and was the clerk's only remuneration. "The Collection for the Clerk of the Parliament's Servant, supplying his master's Place, of Twelve Pence a piece, according to Mr. Wingfeild's Motion Yesterday, was made: which amounted to about Twenty Five Pounds." *Historical Collections, of Heywood Townshend*, 332. (Proceedings of the Four Last Parliaments of Queen Elizabeth." London, 1680. At the end of the session of 1624 there is the following: "Sir Geo. Moore gives an Account of the Collection. Have gathered 100 and 18 ℥ . Some 25 ℥ still to gather. Upon Question, the Clerk to have 30 ℥ his Son, 10 ℥ and the Serjeant, 20 ℥ . C.J., I. 798. There is a similar entry near the end of the session of 1623, with this addition: "Upon Question, all those, which pay not this Contribution, by themselves, or their Friends, to pay double." *ibid.*, I. 715.

Report of the Conference from the lords.

SIR ED.COKE:reporteth that the lord Archbishop - 1.let us know their lordshipps' Care in all things concerning the comon good of the Kingdome.Their lordshipps desire a correspondency;that their lordshipps,as Subjects to a great King and Monarch,are willing to embrace the end of that which we have delivered,but soe as may not pinch or stresse on the prerogative:for if we goe too farre the sinewes of the Monarchy would be dissolved.(For) the knitting of both these together, their lordshipps have appointed a Comittee to see that there may be an accomodacion and that we will appoint a Comittee of a few to conferre of this accomodacion.And it was said by a great peere that the thing for which the lords desire a Conference was just liberties and just prerogatives.

1

24 APRIL.,1628.'

Mr.Speaker in the Chaire.

SIR RO.PHELIPPS:₂Concerning the Conference for accomo-

1.[This remark was probably made in a ~~committee~~ meeting ~~of~~ the *committees for both houses.* Lords.] One very similar was embodied in a report by the Arch-

bishop of Canterbury, from a committee appointed to consider the Commons' resolutions, April 23rd, L.J., III.766-7. *as the material for his subsequent speech in joint meeting*

2.This is a report from the conference.Mass.MS.,120 - "That that is now said consistes on 3 partes,an introduction,what expresseth a desire of all unanimous affection.The same desire is in us and that course hath beene held hitherto - "

daicion; that this busines... 3 partes: (1) ¹ respective introduction to which an answer... (2) that which concerns a proposition generall that the rights and libertie of the Subject may not clashe with the prerogative, whereby the house hath bene exceeding Carefull and tender. (3) the Conference demanded.

The standing of this busines with the lords doth amaze him. Would not have us to refuse the Conference, and would have us soe to proceede as that we recede not from the resolutions for the libertie and right of the Subject, of this house; desires that the Comittee may only heare and receive their lordships' propositions and returne with the same hither, that we may consider of the same before any resolution or **dispute** be made by them.

ORDERED that a Message shall be sent to the lords presently to signifye that 36 Comittees of this house shall meete with 18 of theirs in such convenient tyme as their lordships shall thinke fitt.

RESOLVED that our Comittee that shall goe to the lords, shall receive and heare what the lords will say or propose but not answer or debate. And that there shall be introduction of our parte that we are as carefull and indulgent of the prerogative and Monarchy as any men are; and doe conceive that (what) we have here agreed on and sent to the lords doth not prejudice or diminishe it or enlarge the liberties of the

.1. Used in the sense of "respectful".

Subject. And that we shall then heare what their lordshipps will say or propose and not voluntarily answeare; but only, that what was yesterday delivered was but in nature of a message. Their lordshipps' proposicions now are here and cannot be answeared or debated till the house be first acquainted therewith.

1

Report that the Lords would send us an answeare in due tyme, by Messengers of their owne.

25 APRIL., 1628.

Sir Reg. Mohun, being sent to come before the house to answeare objections made against him and others by the Knights for Cornewall, was excused by reason of his age.

Att a Conference with the lords.

(1) His Majestie will be pleased to declare that the good old lawe, Magna Charta, and the 6 Statuts, conceived to be explanacions thereby or declaracions of that lawe, doe stand still in force to all intents and purposes.

(2) His Majestie will be pleased to declare that, according to Magna Charta and those statutes before mencioned as above, hath fundamentall propriety in his goods and a fun-

1.C.J., I.886 adds to these instructions: "These reasons to be given by the Comittee at first, if any Question move from their lordshipps to that purpose."

2.L.J., III.769 inserts here - "according to the most antient Customs and laws of this land, every free subject of this realm -"

damentall libertie in his person.

(3) To ratify and confirme all their antient, just liberties, priviledges, and rights in as ample and beneficiall manner to all intents and purposes as their ancestors did enjoye the same.₁

(4) To declare for the good content of his loyall Subjects for the securing them from future feare:₂ that in all cases within the cognizance of the Comon lawe and concerning the the libertie of the Subject, his Majestie will proceede according to the lawes of the land.₃

(5) And as touching his Majestie's Royall prerogative intrinsicall to his Soveraignty and intrusted him from God ad ~~com~~munem totius populi salutem et non ad destructionem; that his Majestie resolves not to diverte the same₄, and in case of the security of his Royall person, the comon safety of his people, or the peaceable government of his kingdome.₅ That within a Convenient tyme he will shall expresse the cause

1. The third proposition is slightly fuller in L.J. but the sense is complete here.

2. L.J. - "His Majesty would graciously declare - "

3. L.J. adds - "and according to the law established in the Kingdom, and in no other manner or use."

4. L.J. inserts here - "to the prejudice of any his Loyal people, in propriety of their goods or lib^erty of their persons."

5. L.J. - "His Majesty would graciously declare - "

of Comittment or restraint either generall or speciall;and, uppon a cause so expressed,will leave them to be tryed according to the Comon lawe of the kingdome.

...Reports the Conference with the lords and saith that the lord Archbishop said :the service of the King and safety of the Kingdome doe call on the lords to dispatch.That the lords doe in generall agree with you and you with us. For the particular¹s,their lordshipps have^{laid} nothing by;they have voted nothing and doe invite us to a mutuall and free conference that we should come to them and they to us with confidence...but doe desire to goe with us...if you differ you may putt out, add,or alter.²

RESOLVED that too morrow morning the house shall take those proposicions into Consideracion att a Comittee of the whole house.

Mr.Littleton in the Chaire.³

26 APRIL.,1628.

Att a grand Comittee,Mr.Littleton.

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- 1.The Archbishop of Canterbury.For the full speech see L.J., III.769.
 2. C.J.,I.889.Sir Dudley Diggs made this entire report,including the lords'propositions just given,to the House.
 - 3.Mass.M\$. calls this the Committee of Grievances and gives a long debate.

MR. WILDE₁: that he observeth these defects of these propositions: Unlesse those propositions be required to move particulars it will doe us little good. For the first 2 propositions, we shall not neede to stand much on them: for we shall not (have) to have any renovacion of that great Charter and those statutes. For the 3rd proposition, would have it to be supplied with further words of Negative that there may be noe thing donne therein but according to the comon lawe. The 4. proposition, it is too short; for it is and hath bene a question, what is lex terrae; and doubts unlesse some further words be expressed to declare what that lawe is, it may be extended to prerogative which may be called a lawe. For the fifth, That "Convenient tyme" hath noe limitations which should be ascerteyned and there is noe way in this proposition sett downe for helpe of the Subject in case the prerogative be extended; which we doe desire may be sett downe by habeas Corpus or otherwise: would have "confinement" put downe as well as "imprisonment". And would have us put it downe "propriety in our goods and estate".

2

SIR NAT. RITCH: saith that the lords said they were not out of love with our propositions, and there was noe offer to us to recede from them; and therefore would have us sticke

1. Either John Wylde or George Wylde, both for Droitwich Borough, Worcester. Members of Parliament, I. 470.

2. This speech is not reported in Mass. MS.

to our propositions. The 3rd of the lords' propositions is generall and tends most to the publique (good) which exceeds our resolutions, and would have us embrace that; but not to recede from our owne, but to reteyne as much of the pords' propositions as doe exceede ours. That their 1st and 2nd proposition may be enlarged and helped, for they will contradict each other: for the 5th proposition he would have us leave it out entirely, for they imply speche of matter of lawe, and matter of State, which he understands not, but soe as the sence is, ~~-and-~~ he doubts will be little for our good. He wisheth we should extract what is for our advantage in these propositions and, reteyning it, add it to our owne.

SIR E. COKE: That he would not have us to recede from our owne Resolutions for our liberties of our persons, which is, according to his knowledge, good and wholesome; and would not have us recede from it. As for the lords' propositions, concludes nothing: That there are in those propositions diverse Statuts of the liberties for the Subject omitted... Generally he likes well that word₁, but it is our right that those lawes should be confirmed, and when the king doth a thing of grace it implyes that it is not our right. Lex terre is the common lawe of the land. He understands not

1. There is probably reference here to the words: "Royal pleasure" and "graciously", used in the Lords' propositions.

See L.J., III. 769.

"fundamentall"₁ and therefore will not assent to it. That our "just liberties" shall be confirmed, what are our "just liberties"? is the question; and the thing hath bene here disputed, under the best Kings of England, whether he were the most religious, most rich, wise, or just. There must be added "predecessors"₂ as well as "ancestors", for Bishoppes have noe ancestors but predecessors, or else they are excluded. All things donne "within (the) Cognizance of the comon lawe"₃, it must be added "or Statutes of the Realme": and it is alsoe the lawe and established within the realme. Martiall lawe and Civill is established in the Realme, and by the 4th proposition the comon law must yeelde to the Martiall Lawe. For the 5th, he understands it not, for "intrinsicall" prerogative, it seemes by this proposition, is intrusted in him from God; which shewes it is donne to him iure divino, which then can not by any humane lawe be taken from him. Who shall judge of "Convenient tyme"? This is the thing for which Magna Charta was first made. For a good cause, then if he say it is pro mandatum regis, or for matter of State, it is a generall cause. This concernes Magna Charta: 20.H.3, the lords answered nolumus leges Anglia mutare; we meane to declare Magna Charta,

1. In proposition 2., "fundamentall/ liberty of his person" and "fundamentall/ propriety in his goods."

2. Proposition 3.

3. Proposition 4.

and then we must not yeelde to any accomodacion of it. There was never yet any of the pillars or maximes of the Comon lawe shaken but infinite inconveniencies have followed; if any of the old statuts or Magna Charta be shaken, you will see infinite inconveniencies. Would have declared here what the lawe is for the libertie of subject and still we can weaken the lawe. The end of our Conference with the lords was, that their lordships would declare with us. If they shall, out of their doubtfulness, use any hesitation then that we goe on by ourselves, and wisheth ^{they} ~~that~~ would declare with us or say noe: wisheth we should not recede [^] from any thing.

MR. SELDEN: the question is now whether we shall like of the lords' propositions or noe. He beleeveth that noone here doth doubt of the truth of our resolutions and he beleeveth that noe other that hath consider^(ed) of our resolutions but doth beleieve them. The lords doe offer us their propositions to consider whether they be fitt. That the first 3 of the lords' propositions is not fitt to be asked, because they are of noe use, being granted. He never heard of any man in any judicall place to doubt whether Magna Charta be in force, for it is an act of parliament itself, and it is expressed in the end of Magna Charta, there is a fifteene granted, which shewes it is an Act of parliament: and if it can have strength, it hath it alreddy; and therefore the first proposition is of noe use. There is noe man that ever denied or doubted that we had a

'fundamentall propriety of our goods, but in a pulpit₁, which

1. Refers to sermons preached in favor of the loans. See two sermons by Dr. Roger Manwaring, "Religion and Allegiance." Printed in London in 1627. "First, if they would please to consider, that, though such Assemblies, as are the Highest, and greatest Representations of a Kingdome, be most Sacred and honourable, and necessary also for those ends to which they were at first instituted: yet know we must, that, ordained they were not to this end, to contribute any Right to Kings, whereby to challenge Tributary aydes and Subsidiary helps; but for the more equall Imposing, and more easie Exacting of that, which, unto Kings doth appertaine, by Naturall and Originall Law, and Justice; as their proper Inheritance annexed to their Imperiall Crownes, from their very births. And therefore, if by a Magistrate, that is Supreme, if upon Necessity, extreame and urgent, such Subsidiary helps be required: a Proportion being held respectively to the abilities of the Persons charged, and the Summe, or Quantity so required, surmount not (too remarkably) the use and charge for which it was levied; very hard would it be for any man in the world, that should not accordingly satisfie such demands; to defend his Conscience, from that heavy prejudice of resisting the Ordinance of God, and receiving to himselfe Damnation: though every of those Circumstances be not observed, which by the Municipal Lawes is required." Sermon I., pp. 26-7.

is not to move us, as being a thing unfitt there to be handled there. For the 4th proposicion, is not fitt to be asked, least we should lay that on the King's behalf, for that he doth not conceive that the King did att any tyme proceede contrary to the comon lawe; for the King did leave the Courts of Justice open for every man to use, and if they have not donne what becomes them they are to fault. For the 5th proposicion, it is not fitt to be had; for if we asked, it must be donne in a parliamentary way, it will be and must be granted by an Act of parliament which would cruse our former Resolucions, for it gives a larger prejudice to us then ever practized by lawe: former tymes never did desire such a thing: it is uncerteyne what is a Convenient tyme; for if we put it to the rest of the Judges to decide what is a Convenient tyme, they may resolve what they thinke best. There is noe person of what condition ^(arrested) soever that may not be, and stand comitted att any tyme by this proposicion for a convenient tyme. For these reasons he thinkes we cannot admitt of any of these the lords' proposicions.

SIR NAT. RITCH: would have us to accept of the declarations of Magna Charta, for it hath bene the wisdom of our ancestors to crave declaracions of that Charter to preserve (it) from being antiquated. For the second, he would have it declared because it hath bene preached in the pulpit and printed with the authority... that the King hath a propriety of our goods. He would have us make use of the 3 first prop-

Decisions for our owne advantage in soe much as doth not touch or impeach, but advantage our owne resolutions.

MR. NOYE: we doe not come to make a New contract betweene,¹... but to have the old established; if we may not have all we desire yet we shall have as much as is our owne and necessary and reasonable. Our end is that wee may not be in worse State then we were before: if the edge of those things that were donne in Michaelmas terme be taken away, as we hope it is already, we shall be pretty well satisfied. Wee have here made a declaracion, what we conceive of the lawe in that point, and noe man will be in haste to doe against it. Would have us ad that every man that is prejudiced in his propriety of goods or libertie of his person that he should have redde a writt for it to proceede according to lawe; he would not have us to embrace the first proposicion for then we may be worse then we now are.

MR. PYM: would have us att a conference sett downe that we cannot yeelde in these proposicions, and give our reasons for it: would have a Comittee appointed to sett downe those reasons.

SIR D. DIGGS: would have the 3 first proposicions declared with such addicions as shall be thought fitt, for that in the Country many doubt whether Magna Charta be in force, and by such a declaracion much satisfaccion would be

1. Perhaps "The King and his people" is what is missing.

Grovener's Diary.

given throughe the Kingdome. He is sorry that things are now
 soe brought to a point as that it is the implied question
 whether the King be above the lawe or the lawe above the King.
 Would have a Choise Comittee appointed to consider of the prop-
 osicions of the lords and of ours, and to lett the lords thereby
 see that as we are in love with our owne, wee doe not reject
 absolutely their proposicions.

SIR RO.PHELIPPS: he is glad to see a Resolucion in this
 house not to recede essentially from our resolucions; and the
 respect (that) were shewn to the proposicions of the lords.
 He thinkes we should not take consideracion of the last prop-
 osicion of the lords further then to give the lords an an-
 swere to it. He thinkes not that we are yet ripe as yet for
 a Comittee; would have us to deferre the further debate till
 Monday and then ripen things for a Comittee.

MR. BALL¹: That Magna Charta was heretofore revived by
 reason of the many breaches that were illegall, by comittments
 made, and therefore would have the four first proposicions en-
 terteyned. Would not have us reject or decline the first propo-
 sicion, unlesse it be in that that the irregular comitments have
 bene the causes of this our debate. Would have a Subcomittee
 to consider of the proposicions.

SIR THO.WENTWORTH: would have a Subcomittee but thinkes
 things are not yet ripe for it; hopes that it shall never be

- 1. Peter Ball, Esq., M.P. for Tiverton Borough, Devon. Members of
 Parliament, I. 475.

a question here whether the King or the lawe are above each other: would have us to gett an act and not a petition of right which will lye still in a parliamentary roll unprinted. Princes doe rather gather then loose any ground, and what may be moven uppon the **heelles** of the 5th proposicion, and would not have any ground given to it: would have the Subcommittee to take into consideracion to expand lex terre. When we have a law that none shall be comitted without shewing cause, he would have a marke sett on such that it may not on all occasions be broken, and when it shall, on any emergent cause, noe man, he thinkes, will find fault with it.₁

28 APRIL., 1628.

RESOLVED on the question that Sir Simon Stuart (notwithstanding a Recognizance entered into by him, not to take or claime priviledge of parliament) shall have the priviledge of parliament if he will.

The King sent for this whole house to the upper house.

SECRETARIE COKE delivereth a Coppy of the lord keeper's speech by the King's Comand, delivered in presence of his Majestie and both houses₂, which is left with the Clerk here.

1. This interesting debate on the Lords' proposicions is not given in Rushworth, Old Parl. Hist., or Forster. Mass. MS. has it and adds a few other speeches, one long one by Selden.

Also given.
2. This speech may be found in Old Parl. Hist., VIII. 77-8; and in Ephem. Parl#, 157-8.

1 SIR BEN.RIDIER: the manner of handling of the busines
 now in hand will much advantage us and it . He that doth not
 vallue libertie deserves to be vallued accordingly:the Scope
 of Magna Charta was to reduce the Regall to a Legall power
 else it hath not bene worth contending for.It is impossible
 to take a ... that is to be laid on our king...Lawe be not
 left entire,addicions and exceptions will frett it out.
 Prerogative is praeter not causea legem.The Judges have not
 delivered any thing against our resolucions,and if they had
 not bene just we should,before this,have heard from them:
 the lords reteyne them still entire without dislike,which
 sheweth they like them.And his Majestie now hath declared
 before both houses publicuely that Magna Charta and the 6
 Statutes...by the speech which expresseth a gracious in-
 clinacion to comply to all our just priviledges.A king is a
 good man and it is better to be so then it is to be King.
 ...shall be glad to see that decrepite lawe which hath long
 layne bedrid walke abroad againe,and doubts not but on
 conference with the lords we shall have a happy conclusion.
 Adviseth out of Solomon,be not overwise,be not overjust,
 for Moderacion is the vertue and best both of wisdom, and
 justice.Let it be still our masterpeece to uphold parl-
 iament;for that we shall be able still to rectifye what-

1.OLD Parl.Hist.,VIII.79-81, and Rushworth, ^{Quarant.} give a speech
 by Sec.Cooke here;it is a plea for proceeding with supply.

Soever is amisse, and what we gett not in one parliament wee may in another. He beleeveth us above any pretence and speakes not out of an private **respect** or end. Noe man is borne to be great or wise; but every man is borne to be honest, out of what his hart speaketh.

1

MR. GLANVILL: Would have a Bill to settle our liberties and priviledges, as Sir B. Ridier and Sir Jo. Elliot. Would not have it to be parte from any thing we have resolved here; we have direct lawes alreddy for our liberties and would have only now one lawe to comand the due execucion of all the ould lawes, of Magna Charta and the 6 Statuts, those against the loanes etc. And this may be donne without dispute and by too morrow morning; and wisheth a Comittee of Lawyers to drawe such a Bill.

RESOLVED on the question that a Select Comittee of Lawyers and others of this house shall presently draw a Bill wherein they shall be expressed the Substance of Magna Charta and the other 6 Statuts, together with the resolutions of this house.

1. This speech is fuller than in Old Parl. Hist., VIII. 81-84. It is taken from a MS. in the Harleian MSS. (see footnote p. 81) The speech of Glanvill following is not given elsewhere, except in ^{Grosvenor} Mass. MS. p. 134. The speech of Elliot's to which Glanvill refers, is also in ^{Grosvenor} Mass. MS. p. 134. Several other speeches follow. (p. 135)

Concerning the libertie of the Subject in his person and estates, to meete this afternoone in the Temple att 3 o'clock.

29 APRILIS, 1628.

Speaker, chaire.

RESOLVED on the question that Mr. Tompson, one of the sheriffs of Yorke, and Henpdon, an Alderman of the Towne, shall pay the charges of the rest of the witnesses in the Case of Sir Tho. Savill and Mr. Hoyle for that Sir Thomas Savill was by the meanes of that sherif and Alderman unjustly chosen and returned. And these 2, Mr. Tompson and Mr. Herndon, for their misdeameanor were further censured to be comitted to the Serjeant of this house, to remaine in his Custody till they had made their submission att the barre here on their knees.

Grand Comittee: Mr. Littleton, the Chayre.

SIR ED. COKE reports that the Select Comittee did resolve of three heads for the Bill to be brought into the house, viz. - (1.) Libertie of the person. (2.) propriety of goods. (3.) billoting of Souldiers.

Statutes to be recited:

Magna Charta, 29 Cap.: breache of a Statute of 1.E.1.:
Statute de tallagio non concedendo, made... E.1. : 5.E.3. :
14.E.3., Stat. 2, Cap. 1₃ : 25.E.3₄, in print, and another in

1. 25, E.3., Statutes of the Realm, I. 125.

2. Chapters II. and IX.

3. ibid., I. 290. "No charge" except by consent of Parliament.

4. Stat. 5, Chap. 4., ibid., I. 321.

Hillar.: 25.E.3., Num.16, not in print: 28.E.3.₁; ~~no~~ 25.E.3, not in print: 36.E.3.₂, not printed: 37.E.3.₃, printed: ...E.3, Parl. Roll, Num.12: 1.R...Cap.2:...Bill is to be preamble of Magna Charta...for Comittments in certeyne Cases to be considered of by this grand Comittee.

The Act is -

An Act for the better securing of the just liberties of every freeman. Declared, established, and enacted, that all the said severall lawes shall be put in execucion. Doth enact and establishe the former Resolucions of this house.⁴

SIR NAT.RICHE:saith the reason why this house doth desire a Bill is, that his Majestie's message delivered to us yesterday may appeare to posterity and make it immortall. Would not have anything in this Act that should directly contradict the power of Comittment by the King and lords.

1.28.E.3, Cap.3. Statutes of the Realm, I.345.

2.36.E.3, Cap.9. *ibid.*, I.374.

3.37.E.3, Cap.1 & 5. *ibid.*, I.378-9.

4.Mass.MS. has all the speeches of the debate following, except Spencer's, Whistler's, and Wentworth's. Old Parl. Hist., VIII. has only Hackwell's speech (pp.85-88) and one by Mason (pp.89-94) which Nicholas does not give; they are taken from Ephem.Parl. and corrected by other MSS.

would not have the cause of Comittment expressed in the warrant to the Jaylor but only to the Judges.

MR.SPENCER:would have us make use of the King's declarations in this Act.Would have this Bill devided into 2 partes; one for confirmacion and reviving of all the old lawes and Statuts for our liberties.The other,for enacting and establishing of the resolucions of our house.

MR.ROLLES₁:saith if there be noe cause of comittment expressed in the warrant,the partie comitted cannot have an accion of false imprisonment against the Jaylor.And would have us stand to our former resolucions,that the cause of the Comittment shall be expressed,for he holdeth an accion of false imprisonment against the Jaylor to be a better remedy and satisfaccion to such partie Comitted then a habeas Corpus.

MR.BANKES₂: That the assurance that we shall,by a Bill in a parliamentary way will be most firme,albeit he relyeth exceedingly...Would have us declare in the Bill that to comitt₁ any man without shewing cause in the warrant is expressly against the lawe;but would not have it as enacted.No

1.There is no means of determining whether this is Henry Roll,Esq.,M.P. for Truro Borough,or John Rolle,merchant, M.P. for Callington Borough,in Cornwall.Members of Parliament,I.474. Forster says Henry Roll was among the lawyers on the committee.(II.43)

2.John Bankes,Esq.,M.P. for Morpeth Borough,Northumberland.
ibid.,I.476.

Judges that are sworne to doe according to the lawe will infringe such a declaracion nor any other person when he shall see by an act such a declaracion. If a man be comitted to prison, if the imprisonment be unlawfull the partie may have his remedy against the Jaylor.

SIR THO. HOBBY: if the cause of comittment be expressed in the warrant yet the partie comitted shall not have his libertie a Minute the sooner. That there may be causes of comittment not fitt to be expressed in the warrant; Babington₁ was restrained and soe kept, if the cause of his comittment had bene expressed diverse that were guilty of the same fact and treason would have fled and escaped.

SIR JO. ELLIOTT: That those who would have the cause of comittment expressed in the warrant doe recede from the former resolucions of the house, which this Committee may not nor hath not power to doe, and alsoe against Magna Charta which is that none shall be imprisoned but by lawe; if there be noe cause expressed in the warrant att first, then afterwards a cause may be found out, a Contempt, or if papers may ransaked and thence a cause may be founde.

SIR D. DIGGS: will not looke back on any thing albeit

1. This is probably Anthony Babington, leader of the Catholic conspiracy against Elizabeth. He was captured and confined in the Tower several days before his fellow conspirators were taken.

he may have as much cause as any other:if there be a disposition to search papers,that may be donne before comittment,and it moves not him therefore what Elliot said.It doth not recede from the order of this house if we goe with it by partes:there are many things that may not,in this Bill,be expressed and yet we recede not from the same.He would not have us offer that to the King by this Act which hath not bene offered to any other King.He doubts there is noe lawe or act that ever spake such language as this doth;would therefore have it left out.

MR.HACKWELL:would have all the resolucions of this house for the liberties of the Subject left out of this Act,and only goe on with the confirmacion and reviving the good old lawes,
 - - - - - for those resolucions were drawne out of the lawes expressed in this new act,and by confirming of them we confirme our resolucions,and if we seeke to confirme and enact both ;it will raise a doubt that we have not extracted these resolucions well out of those lawes.All others will consider uppon what reason and accion this new act was made; and that being soe transmitted,that the breach of our liberties was the cause of this New Act,it will so keepe all posterity from doing the like prejudice to us againe.Besides the resolucions of this house will all remaine on Record perpetually here to all posterity,which will be a sufficient declaracion and admonicion to all men in their proceedings.Alsoe we have received his Majestie's gracious declaracion on his owne behalf. If we send upp only

the confirmacion and declaracion of the lawes only, it will with the lords run on wheelles, but he doubteth that the lords will not if then we insert our resolucions, that lords would be stumbled att it, and the King, it may be, will doubt we trench too much on his Majestie's prerogative.

SIR ED. COKE: 2 questions are moved, 1. whether a cause of comittment shall be shewen. 2. whether the resolucions of this house shall be inserted. 33.E.3., The lords of a villaine cannot be comitted but the cause must be shewen in 1.E.2., de fragentibus prisoners; If a man breake prison (he) shall not be punished for it, if the cause of the imprisonment doe not deserve it. Alsoe in 25 chap. of the Acte, it is against reason to comitt any without shewing cause. If he might be sure of the King's lief, he would take his word. He was comitted to the Tower and 37 manuscripts were, with all his papers, (taken) and he had but 34 restored; would give 300 £ for the other 3, the first of which workes Lambard's¹ abreviat of the records of the Tower, 2nd of the antient order of the Chancery, 3rd of the government and lawes of Ireland. When a man is comitted, it will be easy to find causes against him. These acts of parliament doe conclude our Res-

1. William Lambarde (1536-1601). He was an historian who held many public offices under Elizabeth. At one time he was keeper of the Records of the Tower and he prepared an account of them, which he presented to Elizabeth in 1601.

olutions in Substance but not in Termionis verimentibus,
 otherwise Mr. Attorney generall will with a distinction
 wype away all. It will be the greatest honour of the King
 to cleare and declare these resolutions, and yet he partes
 with nothing for the former lawes... The King was impliedly
 named in Magna Charta and in 25.E.3, and 28.E.3 doth name the
 King and Councill. The Judges doe not disclayne their judge-
 ment in the late case of the late comittments for the loanes,
 but they have only explyned it. Besides it is expressly
 the order of the house that a Bill shall be drawne and the
 lawes for the libertie of the Subject and the resolutions
 of this house thereon shall be therein inserted. Therefore
 whosoever doth speake against inserting those resolutions
 or noe, speakes against the order of the house.

MR. WHISTLER : saith that — — — a Jaylor must Judge
 whether he that doth comitt have power to be comitt or noe,
 but whether the cause be sufficient or noe, he cannot judge.
 A man may have remedy against a Jaylor, but doubts he cannot
 against a Judge; and therefore would have the cause expressed.
 Would have a declaracion of the lawes for our liberties made,
 but whether to enact any New lawe he desires that we should
 to morrow debate more att large of it.

SIR T. WENTWORTH: We are concluded that our former orders

1. John Whistler, Esq., M.P. for Oxford City, Oxford. Members of
 Parliament, I. 477.

as unto the Substance of our former resolucions, but not to the words; and Sir E. Coke saith that in those lawes (revived by this new act) the Substance of all our Resolucions and liberties are included. Therefore he conceaveth we may speake to the words without breach of order.

30 APRIL., 1628.

Sir Sim. Stuart did enter into a Recognizance not to clayme the priviledge of this house, nor to require it, or willingly to accept it. It was, on the question that he that served the Subpoena on Sir Si. Stuart to answeare in the Starr Chamber, shall be sent for hither to answeare his contempt to this house. And that notwithstanding his Recognizance, he shall attend the busines of this house, and not attend the Cause against him in Starr Chamber. And that the Comittee of Priviledges shall take into consideracion the Recognizance that Sir Sim. Stuart entered into, and report what they conceive best to be further donne thereon and in that busines.

RESOLVED that Mr. Secretarie Coke shall renew the petition of this house to the King on behalf of the wyne merchants committed by the lords to prison about the imposition laid thereon.

ORDERED that any member of the house shall have coppies of the arguments that have bene or shall be brought in, concerning the libertie of the Subject.

¹ SIR B. RUDDYER: I have bene long very ancious for a

¹ A continuation of the preceding day's debate. Mass. MS. has an account of it also.

sure and exact lawe. Now he would have us strive to have it such as may passe. We doe too much flatter ourselves if we beleve the lords do approve of our words as they are now sent to them; for he beleeveth the lords did thus decline our resolucions because out of a modest respect and desire to hold correspondency. Wisheth that we consider to goe on soe as we may goe on if the lords do not concurre with us. His Majestie hath declared that Magna Charta and the lawes concerning our libertie are in force. If we can save ourselves by the old laws, wisheth we should be sparing to make a New. We should be all tender of the lief of the King and surely his honour is dearer to him. Wisheth we turn not the King's grace to a sowrenes; the anger of a King is more then a chiding, it is the roring of a lion. Let not us lock upp the King, for thereby we shall make that which is vertue in him to be a constreint. We take it ill that he imprisons our bodies, let not us then seeke to imprison his goodnes; he lookes to the same end that we doe, and wisheth we may be soe happy as to take the right meanes.

SIR RO. PHELIPPS: we have soe considerably debated and resolved on our Resolucions as that he doubts not but the lords have a better opinion of them then we suppose. He is soe confident our proceedings here are such as we shall have a happy successe; he is sorry to heare the honour of his Majestie soe much and soe often put upp to this house on every slight occasion. The declaracions of his Majestie doth rather

to confirme us in the way for a Bill then discourage us. Moveth that we proceede distinctly with the parts of the Bill. If we were to conclude of his Majestie, he would take his royall word but we are to deall for the good of posterity; and rather then not to goe soundly, he would not to have us goe by a lawe. And it will be a great honour for the King to (have) such a lawe passed in his tyme. And hopes the successe of this parliament shall be such as that posterity shall boast that he had a friend or a kinsman, a member of this house.

SIR JO. ELLIOT: It is true we are soe to frame this Act that we may passe it with the lords: that this Act doth not ad any new thing: wisheth we proceede in the parts of our Act.

SIR BEN. RUDYER: That he said he did conceive the lords were not satisfied, but it is but his doubt, and should be sorry it should be soe founde.

MR. NOYE: That if an accion of false imprisonment be brought against a Jaylor it will lye, whether there be a cause expressed in the warrant or noe: if the cause be expressed in the warrant, yet the Jaylor may choose whether he will tell the partie of the cause or noe; soe the partie is never the better for it. If it shall be put into the bill that the cause shall be expressed, then it may stick with the lords; it may cause other matters more unusuall to be stopped. Conceaves to declare that the cause of comittment shall be expressed in the warrant is unusuall, and may doe us harm; for if it be refused we shall be in worse then we were before.

And of we doe but declare it then it is att the will of him that comitts the partie, whether he will doe it or noe; if there be a cohercion, it is in the power of the King to remitt the penalty. And for using the name of the King, wisheth it should not be said that the King cannot or ought not to comitt; but would have us to petition that the King, out of grace, will say that his Majestie declares that he will not comitt, etc.

1 MAII, 1628.

SIR JO (HN) LOWTHER : offereth a context by way of introduction, to be inserted into the Bill ; and afterwards a modeste and discreete manner of enacting of the King's declaracion, interlacing our Resolucions therewith.

MR. SHERFIELD: That since we have soe farre proceeded in treaty of this our liberties and priviledges, and delivered it upp to the lords, if we decline it now, it will be an argument that we have noe right to it. We by this lawe and act shall explaine Magna Charta.

SIR D. DIGGS: There is noe Act that saith by the King we cannot doe this or that; but ever saith we will not doe this or that.

SIR JO (HN) SKIDMORE: professeth his integrity to the house and King. To attempt a thing when the finding may doe

1. Sir John Lowther, M.P. for Westmoreland. Members of Parliament, I. 478. This is a continuation of the debate of the two preceding days. Mass. MS., the only other account I find, does not give all the speeches that are in Nicholas.

2. Sir John Scudamore, M.P. for Hereford City. Members of Parliament, I. 475.

us hurt will not become the gravity of this house. Noe universall can derive more to a singular then it hath in itself; and if we confirme the lawes we doe confirme our resolucions. Abroade it may be thought that the parliament may aswell erre or be deceived as other councells; and if then it be said this councell of parliament hath bene deceived in their opinion of the lawes. To what purpose have we said we cannot give till we know what we have; ~~that~~ we have the King's word, and that King that will breake his word will make noe conscience or scruple to violate a lawe. We cannot say that it is not our fault if we have not had a happy successe of this parliament, when the King speakes so graciously to us. Let posterity looke for themselves, and let us trust him that God hath trusted with us. He doubts that whyle we catch att the shaddow we shall loose not the Substance. Parliaments are that (that) we ought to seeke to preserve, for that is the Substance, and by that which this State and Church hath or he beleeveth thus flourisheth.

SIR FR. SEYMOUR: He doubts the King will never passe that point in our Bill that the King or his Councell shall not imprison. He saith that the gentlemen of the Country who are deputy lieutenants and Justices of the peace are oft tymes more to blame then the lords; for they, for feare to be put of their Comissions, will doe any thing required of them by the lords' letters. Wisheth there might be some penalty put

into this Act for such as doe exceede the lawe in points of imprisonment. And would have the bill something amended in the point of the King's or Councell's comittment.

MR. MASON : It is necessary that we are to take Care of
¹posterity and ought to have as much care of them as they have had of us. If what we are to doe did only concerne us and not posterity he would take the King's word. He would have the lawe playnly to expresse what we intend, for if we carry it not by law, we shall not carry it in equity. If we make an act that the cause shall be shewen in the returne of the habeas Corpus, then we dispence with the lawe that saith the cause ought to be shewen att the Comittment. If there be noe cause shewen att the Comittment, then we take it clearely that there can be noe remedy against the jaylor, for we declare that att the returne of the habeas Corpus it shall be tyme enoughe to shew the cause, and doe make the partie that comitts, the sole judge of the cause till the habeas corpus be returned. If a man for refusing to give or lend mony may be imprisoned and noe cause shewen for it att Comittment, such partie will consider the charge

1. This is a brief summary of the speech by Mason given in Old Parl. Hist., VIII. 89-94. It is there placed immediately after the speech by Hackwell which Nicholas dates April 29th. Old Parl. Hist. seems to consider that the debate - lasted only through the 30th.

of his coming upp, of his imprisonment till terme, and other circumstances that will induce a man to pay any thing. If noe cause be shewen att the comittment, he may be removed by habeas Corpus from one prison in the North to another in the west; and as soone as a man is free by one habeas Corpus, he may be the next day comitted againe. If these scruples may be satisfied he shall be turned by reason.

SIR TH. WENTWORTH: The worke we have in hand is by the securing of the libertie of the Subject and the propriety of his goods. The question is now whether those resolucions we have made shall be enacted in terminis terminantibus. The shewing of the cause doth not take away the serching papers or excuse a man. There may be aswell a false as a true cause and though the cause be shewen yet it is objected that this lawe, if the cause be not expressed att comittment, doth lessen it; how Can that lessen, that doth expresse and enact? If we secure the Subject att Westminster by a good lawe, it will satisfye and regulate the suddaine Comittments att Whitehall. We have by this act a security by Magna Charta and the other lawes; and when we have donne all, we must leave a trust in the King. Would have us confirme Magna Charta and those other lawes together with the King's declaracion by this act; and would have us provide by this lawe to secure us, that we may have noe wrong from Westminster, but that it shall be enacted that we shall be bailed if a habeas Corpus

be brought and noe sufficyent Cause. And such a lawe will exceede all the lawes that ever we had for the good of the Subject, and if it be soe then he desires to know whether our Country will not blame us if we refuse it. He is to be changed by better reason if he see it.

Speaker goes into the Chaire.

Message from the King delivered by Secretarie Coke:
His Majestie desires the house to lett him know clerely whether we will rest on his royall word, delivered in former speeches and particularly in that delivered by the lord Keeper, which if we doe, then he assures us he will regally and really performe it.

¹
We have not here heard of any defence offered for what hath bene donne, but that it was illegall and forced to it by necessity. His Majestie desires to come out of those waies, hath called this parliament thereby to settle all things in a right course. We must consider the King's occasions; there is noe objection but that we must take Care of our posterity. His Majestie hath said he will not leave us lesse libertie. It is proper to this house to deliver reasons and opinions.

1. Old Parl. Hist., VIII. 95, states that there was a silence for some time in the house before Cooke proceeded with his speech. The speech is given more in full; it is taken from **Rushworth. debate.** Ephem. Parl. and Rushworth have only portions of ~~the~~ Mass. MS. ^A
-has the proceedings in full.

if we ad any thing to what is conteyned in these Auntient lawes,if we shall attempt any thing that hath not bene granted or assented to by his predecessors,or which may be conceaved to be soe,he as a Councillor would not persuaide him to accept or doe it:make what lawe we will,he by his place must comitt without shewing cause to either Jaylor,Judges,or Counciller, or other then the King.

SIR ED.COKE:That we may too morrow take it into consideration whether we will take his royall word,for it is a busines of great consequence.

SIR RO.PHELIPPS:sees that we are almost at an end of our journey,for as we now answeare,the conclusion of the successe of this parliament will be either happy or unhappy.Would have us well to consider of it and lay before his Majestie the thanks of his people,and to those for whome we here serve.

SIR JO.ELLIOTT:dislikes that the Message was not sooner delivered;dislikes the Supposicions of Secretarie Coke^a,and his speaking in the face of the house to say he will comitt notwithstanding the resolutions of this house and contrary to our resolutions.

SECRETARIE COKE:saith that he that gave him that Message gave him the tyme when to speake;and for what he hath here said he retracts not a word of it.

2 MAII,1628.

Speaker in the Chaire.

SIR WA(LTER) EARLE: would have us lett the King (know)

what we have donne, why we have donne it, and in what manner we have donne it; then to shew that we have lookt on the old lawes of Magna Charta and the other Statutes. For it is lay downe that the subject hath within these 3 yeares, suffered more to the prejudice of their liberties then ever; and then to lett him know we take it to be through the fault of his Ministers. Would have us returne thanks for his Majestie's declaracion; and would have it to be debated att a grand Committee.

RESOLVED on the question that a grand Committee of the whole house shall presently take into consideration the severall messages from his Majestie and what course is fitt to be held to give his Majestie annswere to his message sent yesterday. And Mr. Herbert shall be in the Chaire.

Att a grand Committee.

1

1. Of the debate that follows, only the speeches by Coke and Wentworth are found in Old Parl. Hist., VIII. 97. It is stated there that Wentworth closed the debate, while Nicholas places Wentworth's speech about in the middle. Old Parl. Hist. takes its speeches from Rushworth in this case. Forster has the same. Ephem. Parl. does not give the debate at all. Mass. MS. agrees with Nicholas almost entirely; Nicholas has omitted four very short speeches and seems to have given only the main points of the rest.

MR. WILDE: There was an Act made against one that had acquainted his Majestie with the passages in this house, whereby it was enacted that neither he nor any of his posterity should ever sitt againe in this house; and it were happy if those things that are agitated here would be kept within these walles till ripened for a Resolucion.

MR. CORITON: he doubts the King is misinformed of our actions and proceedings. There have bene many incursions on our liberties; we have declyned seeking the punishment of those that have beene the cause of those breaches on our liberties, and if we have not examples made to deterre others from doing the like, then we must make a Lawe to prevent the like for the future. For if we make neither examples nor lawe for remedy for the future, then we shall not be releaved. Would have us make a declaracion to the King of all our proceedings.

MR. SOLLICITOR: would have us goe on by bill for confirmation of Magna Charta and the lawes, and not by declaracion to shew our proceedings.

MR. BROWNE: we have Lawes enoughe, and the execucion of all the lawe we desire; and ^{trust} For that we must the King: which would have us doe it, and proceede to the Bill of Supply and laye in the fore parte of it the declaracion of his Majestie to both houses; and when we have donne this, would have us goe on to a Bill for our security, for which such proceedings for the Supply would make way for our Bill.

SIR THO. WENTWORTH: would have us send a present Message by some of the privy Councell. Our desires are not more then are already laid downe in the statutes and former lawes which from ~~modes,~~ ^{or} parties ~~are~~ for execution and performances; that we returne his Majestie our humble thanks for his gracious declaracion in parliament. That never house did more trust in the goodnes and royall word by his message to us of his Majestie, then we (doe for our owne particulars) but wee are ambitious that his goodnes may live to posterity,¹ and we are accountable for a publique trust, and therefore doe most humbly beseech that He will take us soe farre into his consideracion that we may lay hold of his Majestie's gracious messages; that when there hath bene a publique violacion of our liberties by some of his Majestie's Ministers which requires a publique satisfaccion by bill. That nothing else will enable them to Supply his Majestie with cheerefullnes or give us a welcome when we are come home. Our desires are noe... we have not yet agreed on a Bill, as soone as we and (the) lords have debated it, when we will loose noe tyme, we shall crave this lawe... that we may deliver them by the Speaker and the whole house. For some illustrations, explanacion... We have not yet agreed on a Bill, as soone as we have debated it (whereon we shall loose noe tyme) ...

2

1. Nicholas has drawn a line through this parenthesis.
2. There is a great deal of confusion here. Mass. MS. has nothing of this last part of the speech.

- SERJANT HOSKINS: would have us relye on the King's word given soe publiquely before both houses. It hath in former tymes bene desired that Magna Charta might be confirmed, without successe; and there are many doe (as he conceaves) in former tymes would have gladly lost their lives in obedience to his Comands, soe Magna Charta might have bene confirmed.

SIR FR. SEYMOUR: the relying on the King's word hath bene the cause of our resolution for a Bill, for the King's messages have bid us goe on by Bill or otherwise. Would have Sir Tho. Wentworth's speech proposed for answer to the King.

MR. LITTLETON: That if we intend to goe by Bill and then to insert the substance of the resolutions of this house, he shall agree to it; but if we intend to leave out any parte of it, he shall not consent to it. But laye it downe in what words we thinke best; for if we now leave out our resolutions we shall decline the sence of the good lawes.

SIR E. COKE: was never in so great a streight in all his lief. Will consider first what the King's desire is; whereby we are not tyed to his Royall word only but with reference to his former speeches. Would have us deale cleerely with the King: that it is not the sence of the house to rest only on confirmation of Magna Charta, but on some such illustracion in those former lawes as by construccion of lawes, or conteyned in those lawes; because there hath bene a violacion on our liberties. Would have our Bill goe as from the King's owne person, that he will doe this and that; and soe is Magna

Charta and 14.E.3. Would have us goe on by Bill because the King saith we should goe on by Bill or otherwise. Acts of parliament are the highest Record, and it will be as full for his Majestie. Would have it put into the Bill that lex terre is by processe of lawe; and soe it is resolved 37.E.3 by an Act of parliament. The King cannot speake but by record, being soe highe a person. Would have us tell the King that we **intend** to proceede by act of parliament for confirmation of our old lawes and illustrations of them; and this with our humble thankes for his declaracion, to be presented by our Speaker.

1

1. Mass. MS. p. 145: "It was ordered that the Speaker and the house should goe to the kinge to returne most humble thankes to his Majestie of his purpose to governe us by the lawes, and that never house of parliament ever more trusted on the goodnes and royall word of a kinge then wee, as private men, but wee are ambitious that his Majestie may live to posteritie; and that wee are accomptable to a publique trust to our Countrey. And to beseech him to take us soe far in to consideration that wee may lay hold on a message sent us by his Majestie, and that wee may in all dutie present to him that after a publique violacion hath beene made by his ministers, less will not satisfye his subjects then a bill, and that nothing else will inable them chearefully to serve his Majestie, or cause them to give us a welcome when wee come home. But our desires are —noe more then are allreadie layed downe in the substance of

SECRETARIE COKE: would have us consider whether that charging that there have bene a violacion of the lawes will not be distrusted, and would have us consider that the Committee may (make) our answeere in fitter words for the King's eares.

SIR THO. WENTWORTH: That he is farre from charging his Majestie with a violacion of the lawes but that it was by his Ministers, and by them the lawes have bene violated.

SIR FR. SEYMOUR: saith the privy Wouncell here have confessed this parliament that there have bene illegall proceedings occasioned by necessity.

RESOLVED on question, That heads first proposed by Sir Tho. Wentworth and since spoken to and debated shall be deferred to a Select Committee to be penned, reteyning the Substance.

the former lawes which have modist provision for illustration, perfourmance, and operation; that wee have not yet agreed on the bill, but soe soone as wee have debated it, wee will loose noe time but give it a speedy dispatch."

This will be seen to be almost identieal with the speech of Wentworth's earlier in the debate, as given by Nicholas, but omitted in Mass. MS.'s report of the same speech. It seems probable that Nicholas is correct, and the order referred to is probably the resolution which he gives briefly a little later, stating merely that the "heads first proposed by Sir Tho. Wentworth" were adopted.

2 MAII, 1628.

In afternoone:Speaker in Chayre.

MR. SECRETARIE COKE delivereth a Message from the King:
That his Majestie hath comanded me to make knowne that his
Majestie will maynteyne us in our just liberties and privi-
ledges. That howsoever we proceede in the busines in hand,
which he will not doubt will be according to our constant
professions, and soe as he may have cause to give us them;
in goodnes, as according to his lawes, he will maynteyne us
in the propriety of our goods and libertie of our persons,
soe as we may enjoye... reforme whatsoever hath bene amisse...
would not have us incroache¹ uppon that Soveraigne prerog-
ative which God hath put into his hands for our good; and
by conteyning ourselves... by streyning or enlarging them²
by any Newe explanacions, interpretacions, expositions...
This Session to continue but till Tuesday one sevennight...
Will have another session att Michelmas next.³

SIR THO. HOBBY: would have this Message delivered in
wrighting.

1. Mass. MS., "as much happines as our forefathers in their
best times; and that he will - "

2. Mass. MS., "within the bounds and lawes of our forefathers
without - "

3. This message is more complete in Old Parl. Hist., VIII. 98-9.

- It is also in Ephem. Parl., 167; and Mass. MS., 145 verso - 146.

RESOLVED it shall be **desired** delivered in wrighting.

3 MAII, 1628.

SIR JO(HN) STANHOPP : That a member of this house, Sir H.
Stan¹hopp, is comitted by the lords of the councell, desired...

SIR ED.²COKE: That in 30.H.6 it was resolved that for 3 things a man may not have the priviledge of parliament, viz: for Treason, for felony, and for surety of the peace.

MR.PYM:saith that the house cannot take notice by a report that Sir H.Stanhopp is comitted for sending or accepting a challenge to or from Mr.Herbert, unlesse it were judicyally to us, therefore would have a habeas Corpus sent for him that we may know the cause.

SIR HEN.RITCH : It was Resolved last parliament that
this house might send for a member of this house.

ORDERED that the Serjant att mace shall goe to the Marshalsee and thence bring Sir H.Stanhopp with his keeper and the warrant which he was comitted...

1.Sir John Stanhopp, M.P. for Leicester Borough. Members of Parliament, I.476.

2.Sir Henry Stanhopp, M.P. for East Retford Borough, Nottingham. ibid., I.477.

4. These three speeches are reported as one speech by Coke in Mass.MS. (p.146

3. Probably this is a mistake; there is no Sir Henry Riche in this Parliament.

5. "into the house uppon Munday next." Mass.MS., 146.

... uppon reading the King's last Message.

SIR JO. ELLIOTT: would have us dissolve the house into a¹
grand Comittee to consider of this last Message from the King.

ORDERED. that this last Message shall be further debated
att a grand Comittee.

Att a grand Comittee.

SIR MILES FLEETWOODE :the necessity of the defence of our
Religion;and all our alliance hath bene the cause that brought²
us into this necessity we now are in. We have two waies:(1)By
way of Bill,which he would have to be in pursuance of the King's
Messages.Would (have) us by Bill to confirme Magna Charta and
the 6 lawes,and others not printed which are in force for us:
and would have us descrie those presidents against us.The King
will allow of any thing that doth necessarily arise out of
these lawes. 2ndly:Would have all the King's Messages entered
in the lords and our house to remayne of Record:and that such

1.C.J. (I.892) has the following entry which explains this
fragment."Mr.Secretary delivereth in,in Writing,his Majestie's
Message,Yesterday sent.-That he,having set it downe in Writ-
ing,shewed it to the King;who perused,and allowed,it;so as
now it is the King's Message."

2. Sir Miles Fleetwood,M.P. for Woodstock Borough,Oxford.Mem-
bers of Parliament,I.477.

comittments as have bene made for loanes may be revoked and discried.

¹
MR.LITTLETON: we have not yet nor ever shall desire any thing of his Majestie that is new or not in use:to have explanacions is not New:by the 6 Statutes it is cleere that they are but explanacions of Magna Charta.If in all those tymes there were faire explanacions,and that we seeke but the like now,noe New thing,and that we desire not to trench on the prerogative of the King.

MR CHANCELLOR of the DUTCHY: would have us first to agree of a Bill that the King may see what the explanacions are which we desire;for by speaking of generalls to the King of explanacions,his Majestie hath reason to doubt that the explanacions we intend will exceede the text.

²
SIR FR.SEYMOUR; would that we answere the King by our accions not with words,for he believeth there have bene many misrepresentacions.Would therefore have us to proceede first

1.This speech is given differently in Old Parl.Hist.,VIII. 99-100;a speech of Elliot's first.The other speeches of the debate are given in Mass.MS.(146);an opening speech by Sir Dudley Diggs is given there.

2.In Mass.MS. a short speech of Coke's precedes and a longer one by Elliot follows this.The speech by Elliot is the one which in Old Parl.Hist. (see note 1.) opens the debate.

with our Bill, that the King may see what explanacions we intend and desire.

¹
SIR THO. WENTWORTH: would have the Subcommittee to take into consideracion the last Message and an answeare to it: would have us represent to his Majestie expressly what explanacions we desire.

MR. CHANCELLOR (of the) DUTCHY: desires we would have all goe to the King with particulars, for if we come in generalls, it will not satisfye.

SIR E. COKE: 2.H.4., Num. 10: the King ought not to take publique notice of any thing donne in parliament, but of the resolucions of parliament: private Notice his Majestie may take, but to seeme to take notice, as to send Messages, it ought not to be donne.

²
SIR H. MARTIN: The greatest calamity of this Kingdome, both att home and abroade, is the distance betweene the King and the people: The principall **vertue** of all the King's Messages is the losse of tyme and by our answeare we spin out tyme.

³

1. Nicholas omits several speeches after this, which are given in Mass. MS.; but he gives two not given there.

2. This point was first settled by the Commons in the second year of Henry IV.'s reign; under the Tudors and Stuarts it had been disregarded.

3. This speech, in substance is attributed to Sec. Cooke in Mass. MS., 147. From the nature of the speech I judge Mass. MS. to be wrong;

MR.SHERLAND: Would have us desire the King that we may have an Act of confirmacion of Magna Charta and the other statutes and a declaracion that the loanes and imprisonments were illegall.For there can be noe explanacions this Sessions. Would have us to make the Substance of the King's gracious Messages to be the preamble of our Bill of Subsidies,and for the rest,to relye on his Majestie's grace and goodnes.

MR.LITTLETON: would have it expressed in this answere to the King,what we meane should be in the Bill.

SIR E.COOKE:would not have us tell the King what we meane to have in the Bill,for that is not faire dealing with the Subject.

RESOLVED on question by this grand Comittee:That the former Subcomittee shall pen an answere to the King,uppon such heads as now shall be resolved by this grand Comittee by way of addicions.

¹
RESOLVED ~~that~~ Mr.Sharland's mocion and Mr.Littleton's shall be laid aside.And alsoe that the representacion of misinterpretacion to the King of the busines of the house shall be left to the Subcomittee.To meete att 2 o'clock this afternoone...for some necessary explanacion of what is truly comprehended in true sence of former lawes and

1.The result of this debate was embodied in a message to the King,found in Ephem.Parl.,171-2.See also Mass.MS.pp.

147 verso - 148 verso.

-moderat provisions for execution and performance.

5 MAII, 1628.

Effect of the King's answer delivered by the lord Keeper. The lord Keeper: His Majestie¹ hath comanded me to tell you he expecteth answer by your actions and not delays by discourse. You acknowledge trust and confidence in your proceedings but his Majestie sees not how you requite him by your confidence in his word and actions. For what neede explanacions, if we repose confidence in his grace and goodnes? For explanacions will hazard an incroachment on his prerogative and it may well be said what needes a new lawe to confirme any old if you expresse confidence in the declaracion lately made by me to both houses? We acknowledge our greatest trust must be in his Majestie's grace and goodnes without which nothing that you can frame will be of availe nor safety to your petition; yet to shewe cleerely the sincerity of his Majestie's intencions, is content that a Bill be drawne for confirmation of Magna Charta and the other 6 Statutes issued or for the Subjects' liberties, if you shall choose that for your best way, but that without addicions, paraphrases, or explanacions. Thus, if you please, you may be secured from your needles feares. His Majestie hath given his word by me, that

1. The answer is given in Ephem. Parl., 173; it is practically identical with Nicholas'. According to Mass. MS. (148 verso-149) it was delivered on May 4th. C.J. agrees with Nicholas' date.

You shall have noe cause to complayne;lesse then which have bene,is enoughe to reconcile great matters betweene princes; for much more betweene a King and his Subjects. If you seeke to tye your King by new and indeede impossible bonds,you must be accountable to God and your Country if this meeting hath not the wished for end.Lastly that without any further replyes of messages or other unnecessarie delays;you doe what you meane to doe speedily,remembering alwais the last Message Secretarie Coke brought you,in point of tyme,his Majestie alwais intending to perform his promise to his people.

5 MAII,1628.

SIR ED.COKE: That we are the Judges of the members of this house during parliament.Would have Sir Hen.Stanhopp (who being a member of this house and standing comitted by the lords of the Councell to the Marshalsey for preventing his fighting with Mr.Herbert who sent him a challenge) comitted to our Serjant till they are reconciled.

MR.PYM:That he thinkes the warrant from the lords for comittment of Sir Hen.Stanhopp,being for the peace,is noe breach of parliament;doubts whether this house can take security for the peace or noe.We must comitt him (if we shall take him from the place where he (is)) to some prison,as the Tower.He is of opinion we must remand him.

MR.HACKWELL: auntiently there hath a writt of priviledge hath layne for stay of a **suyte** when a parliament man

is a partie. It is said in a parliament Roll that a member of this house ought to have his priviledge but in Cases of treason, fellony, or for surety of the peace; and he is of opinion that we ought not to give or grant priviledge to Sir H. Stanhope, it being for surety of the peace; but to remain him whence he came.

MR. SELDEN: By the Course of parliament a man stands Committed for breach of the peace ought not to have priviledge of parliament. That is to say, his Comittment is not against the priviledge of parliament, for the man soe Comitted may be freed uppon surety of the peace. In regard we cannot take a Recognizance, would have us remand him, but soe as good security may be taken of him for the peace in the King's Bench or Chancery.

ORDERED that Sir H. Stanhopp shall be sent back to the Marshalsey againe till too morrow, 8 o'clock in the morning; in the meane tyme a Select Committee to viewe the presidents in the like Cases, and too morrow to returne to this house their opinions.

IT is alsoe to be considered too morrow what course to be taken with Mr. Herbert who sent the Challenge to Sir Hen. Stanhoppe, who is a member of this house.

ORDERED that the Clerk shall bring to the house too morrow, all the Coppies of the arguments that are written and delivered to the house concerning the libertie of the Subject.

MR. ROLLES: would not have us att present to debate of this great busines concerning the King's answerre and our

busines;and that Coppies of the Speaker's Speech and the King's answere too day may be delivered;and that wee may too morrow debate further of this busines.

SIR ROB.PHELLIPPS: In regard we are shutt upp for returning againe to the King till we have acted some thing here;would have us consider of this great busines till too morrow,that then we may resolve of what may concerne his Majestie's Subjects and Englishe men;and hopes that too morrow or Tuesday we shall resolve of what shall make this a happy parliament.

ORDERED by question,that the Consideracion of his Majestie's answere shall be taken too morrow and debated in the house, and that without interuption of any other busines;and Sir H.Stanhopp's (case) shall be deferred till the next day.

ORDERED that Coppies of Mr.Speaker's speech this day delivered to the King,and the King's answere to it delivered by Mr.Lord Keeper,shall be given out jointly together and not singly by the Clerk with speede.

MR.PYM:That in his Majestie's Speech , his Majestie said that we should not offer any more to the King;but to proceede whereas it is in the libertie of the house to offer what they thinke fitt;and therefore would not have that point entered in the Clerk's booke,since it trenches on our liberties.

6 MAII,1628.

1

1.For other reports of this debate see:Forster,II.46-7,Rushworth I.557-8, Mead to Stuteville,Court & Times,I.352 et seq.Mass.MS. is the only complete report;the order of speeches is the same.

MR. SECRETARIE COKE: the matter now is, what way we will take; either to rest confident of his Majestie's word, or to proceede by Bill. To confirme Magna Charta and the Statutes expounding the same, are matters of soe great consequence as, if it had bene sought 200 yeares (ago), it would not have bene granted. To say that these lawes neede not to be confirmed were to say that an old house needs noe repaire. The assurance of the King's word hath a further extent then any act; the King promises not only to governe by his lawes but that we shall live as happily as ever Subjects did; which conteynes not only these lawes but alsoe all other good lawes. The assurance by bill bindes the King as sure as lawe can do it but his word bindes his affeccion to us, ... judgement and honour both att home and abroad, for the performance of his Royall word is the foundation of a King's honour; it bindes alsoe the King's Conscience, for a promise of this nature to both houses is in the nature of a lawe, and the King will be carefull of it. He thinkes it will be more for the honour of the house and the King to have this great busines delivered and debated in the house then a Comittee. That debates in the grand Comittee is new, and brings great delay.

MR. ALFORD: 3 partes to be considered: (1) concerning the Bill for confirmation of the lawes; (2) by petition; (3) proceeding in the preamble. (1) Unlesse there may be with such confirmation of those lawes, some explanacions he conceaveth we shall be noe better then now we are. (2) The Messages have

not bene according to an antient parliamentary way; would have the Messages reduced to an antient parliamentary petition, that we may have the King's answere particularly to them; to which he would have added the billeting of Souldiers and the garding of the Seas. If the King shall give us answere he doubts not but his Majestie will graciously performe it. Then would he have us make the King's answere to such a petition the pre-
amble of the bill of Subsidies.

1

ORDERED on the question that a Comittee of the whole house shall take into Consideracion what was by Mr. Speaker delivered to the King yesterday, and the lord Keepers answere and all former Messages and what course fitt to be donne then. And shall not be limitted by any former orders.

Att a grand Comittee: Mr. Herbert in Chaire.

MR. ALFORD desires the lawyers may shew what benefitt we may receave by an Act of confirmacion of Magna Charta and the other Statutes without explanacions.

MR. LITTLETON: he is confident that we shall loose by having a Confirmacion of those lawe[s] without explanacions; for we shall loose by receding from our former resolucions and make other men beleieve we do tacitly desert our resolucions made in this house. And a gentleman in the country that knowes not our Resolucions, will never be able to extract out

1. A speech by Elliot, found in the other authorities (see note p. 139) is omitted here.

of these lawes those points wee have here resolved. Therefore he is so farre from desiring to have a bare confirmacion as he would refuse it if it should be offered.

CORITON: we have noe answere from the King concerning the billeting of the Soldiers. His Majestie speakes according to his greatnes, we are to do according to our duties. Would have us goe on with a law explanatory, not exceeding modest boundes.

SECRETARIE COKE: That the King will discharge the Soldiers as soone as he hath mony, and hath given order to his officers of the **Thresury** to raise money with speede to discharge them.

SIR ROG. NORTH : our Coundicion is that we are borne
¹
 freemen, we are sent hither from the publique not as private men; and we are sent to doe the busines of the publique. A confirmacion of Magna Charta and the 6 others will not give our Country staisfaccion, for the riddle of lex terre is not yet unfolded. But we have more, we have the King's word that he will governe us according to the lawe, not by his prerogative, which he thinkes is... would have us therefore rely

²

1. Mass. MS. gives Sir Dudley North.

He was M.P. for Horsham Borough, Sussex. Members of Parliament, I. 478.

2. Possibly the words - "a great satiafaccion" are omitted. They occur before this clause in Mass. MS.

on the King's word and seeke noe more.

SIR NA.RITCH : the King offers double satisfaccion, by
¹
 Bill, or by his word. For Confirmation of the lawes alone, un-
 lesse it be with explanacions, we have the shell not the Kernell,
 shaddowes and (not) Substance. Would have that the Subject
 might be secured in the point of Comittment for loanes. Would
 have some way found out that we may have an interpretacion of
 these lawes, that we might know what they are, and then we would
 trust; for notwithstanding we have declared we (ought) not
 to be comitted without shewing cause, yet Sir H. Stanhopp, a
 member of this comittee, is now comitted for breach of the
 peace by the lords, and in the first warrant noe cause was
 shewen. Would have us agree on the point what we should trust
 the King with, and then he would trust his Majestie.

SERJANT HOSKINS: If Magna Charta had bene in force, it
 might have satisfyed 29 parliaments before, by which it hath
 bene confirmed without explanacion. What good had our Ance-
 tors by 29 former confirmacions of Magna Charta? We shall
 have as much and let us not refuse it, presuming we are wiser.
 Would have us goe lame as Jacob soe we may have a blessing,
 and we may have another hereafter. Would have us take the re-
 vivving of any Statuttes if the King will offer it.

SECRETARIE COKE: That he hath a letter in Spanishe

-
1. The other authorities (note p.139) except Mass.MS., place
 this speech at the opening of the debate.

written from beyond Sea, that the parliament will not trust the King.

MR. BALL: 3 questions; whether we have any liberties of our persons or noe; whether any propriety in our goods; (3) whether safety of our lives. To have the lawes confirmed without some explanacions, they will be senselesse and uselesse. 19.E.2, close Roll, is recited what imprisonments were lawfull, what not. 24.E.3, a confirmation with an enlargement that noe such breache by Comissions as was then, should be any more. The question is only for explanacion of 2 words only (viz. lex terre) which run throughe all these lawes. The Judges cannot take notice of any our Resolucions of this house. The Country can never pay the Subsidies we intend to give, unlesse they are eased of the Soldiers which are billeted. Would have in the Bill of Subsidies, the preamble of it to be the King's messages and in the bodie to conteyne the cause of our confirmacions of the lawes, and our declaracions against Billeting, and all other our Resolucions concerning Marshall law and the matters now in agitation in this house to be enacted in the Bill of Subsidies. And this will expedite the businesses and is not against the King's answere, and the like was donne in 18.E.3.

MR. PYM: That the King's word cannot add any thing to the obligacion of his Majestie alreddy, for his oath att the coronacion and his conscience is as great an obligacion as we can have by his word.

MR.DYETT : if that which is best be not feasible then
 would have us accomodate ourselves to the tyme.¹ There are
 many lawes that are obsoletè thoughte not repealed.If we
 are but in the same case our ancestors were,we are nill.
 Would have his Majestie to declare that it is not lawfull
 to raise loanes,against billeting of soldiers;because noe
 resolucion against Marshall Lawe,thinkes that point not fitt
 for a declaracion.Would have us content ourselves with a
 Confirmation of Magna Charta and make the King's declara-
 cion the preamble of the Bill of Subsidies.

SIR E.COKE: we must trust and rely on the King for he
 is the lieutenant.Regiar via,is a parliamentary way.Parliaments
 did never rely on Messages from the King,but have ever pre-
 ferred their petitions of greevances to the King'of all
 particoulars;and would have (us) proceede that way,and take the
 King's answeere to every our particular greevance.Would have
 us have a conference with the lords and goe with them by a
 petition of right to the King of all our greevances.When we
 have the King's answeere to our petition of right,he would
 then have the same put into the preamble of the Bill of
 Subsidies;would have us goe this way because it is a parlia-
 mentary way,not that he distrusts the King but would take
 his word in a parliamentary way.

2

1.Dyett's name is not in the list of members of this parlia-
 ment.Mass.MS. gives his name for this speech also.

2. This speech is given,differently worded,in Forster,II.47.

SIR JO.ELLIOTT: To what doth it amount to say that his Majestie will governe by the lawes whereas it is not knowne what the law is,without explanacions;and the King will have noe explanacions.He would have it first resolved what we should trust the King withall.

MR.GLANVILL: agrees with Sir E.Coke's mocion.Would have us vote here that the Comissions for the Loanes and the instructions thereon are a greivance in Creacion and execution,and that a petition of right in that point may be presented to the King.

MR.LITTLETON: would not have it put to the question, whether we shall trust the King or noe.

SIR THO.HOBBY: would have the petition to complaine in the petition against the loanes,Billeting of Soldiers,and Martiall lawe.

MR.PYM: we are to petition against the breach of lawes and for due execution,not for any explanacion of the lawe; and hopes that course will best please the King.

SIR THO.WENTWORTH: doth agree with Sir E.Coke to goe

It is practically the same as Nicholas' in Rushworth,I.558 and in Old Parl.Hist.,VIII.105. A letter,Mead to Stuteville, Court & Times,I.354,gives the speech practically as in Forster. Gardiner thinks Forster had no authority for this speech;but here is at least one other witness or the source of Forster's information.The speech,with variations,is given in Mass.MS. pp.152 & verso.

by petition of right but soe as when we have the King's answer to such petition we may be att libertie to take what other course we thinke fitt.

SIR ROB.PHELIPPS: would have us goe by a petition of right and then to include the substance of the King's Messages and declaracions; for we have suffered as much in our liberties and estates as ever any Subjects did, and for which he hopes we shall have an ample reparacion. And would have us, when we have the King's answer to our petition of right, would have us then resort to other Counsells what to doe thereon.

CORITON: would have us goe by a petition of right if it amount to a lawe, otherwise shall not yeelde.

SIR D.DIGGS: One of the best liberties of the Subject was one delivered in E.3 tyme in answer to a petition then delivered, and surely it amounts to a lawe.

MR.HACKWELL: That a petition of right, if the King answer it graciously, doth not amount to lawe nor is a parliamentary way. We have in these later tymes gone by petition of right and had answers to them; but neither the petition or answer is now to be founde.

SIR NAT.RITCH: would have us goe by petition of right which is an old way; it is better because we shall knowe the King's answer to it before the bill of Subsidies goes upp. Whereas a Bill is more hazardous for if the King assent not to it att the end of the parliament, then are we noe better

then we were before.

RESOLVED on the question by this grand Comittee that the way and manner of our proceeding concerning our libertie shall be by a petition of right and that in a parliamentary way.

SIR THO.WENTWORTH:when we goe by ourselves our petitions of right are not records but when we goe with the lords then it is a Record;and we may have it exemplyfyed under the great Seall,and that we make it amount to a lawe.

SIR PHELIPPS: would have us send for the Customers and Receevors to know how they durst levy tonnage and poundage without a lawe as it was donne in 1.Jac.

RESOLVED alsoe that in this petition¹ of right resolved to goe with to his Majestie;The matter of loanes,benevolences, and other like Charges for raising of monny against the lawe, shall be referred to a Comittee;and alsoe the Comission and Instruccions for loanes and all the proceedings on the same shall be referred to them.

And alsoe the 2. head of our petition of right shall be concerning the billeting of Soldiers and Marriners.Alsoe the 3rd head to be comprehended in our petition of right shall be imprisonment and other restraints of personall libertie.

The composure and Consideracion to be drawe(n);this petition of right is referred to the former Select Comittee.

7 MAII,1628.

ORDERED on the question that a Select Comittee shall viewe the Clerk's booke to see the orders entered and to

1.James' first Parliament did not meet until March 160³/4;so the bill of tonnage and poundage was not passed until then.

make a Colleccion of what hath bene donne in tymes past, and what is to be donne for the future, and to present the same to the house.

An Act for the mayntenance of the Ministry. This came from the lords.² lectio. This Bill is comitted.

ORDERED that the further Consideracion of garding of the Narrow Seas shall be referred till too morrow morning.¹

Substance of our petition of right.

- ²
1. None to give or lend but by act of parliament.
2. Noe oath to be therefore administered.
3. That noe freeman in any such manner as is before mencioned be imprisoned or deteyned.
4. To remoove the Soldiers and Marriners and your people be eased of such burthens and charges.

All which they humbly pray of your most excellent Majestie as their rights and liberties according to the lawes and Statuts of this Realme. And that your Majestie will be pleased to declare that the Comands, doings, and proceedings

1. This bill is not mentioned in C.J. It is given in Mass. MS.

2. C.J. does not give these heads until the 8th of May. Ephem. Parl. does not give them at all. Old Parl. Hist. states simply that on the 8th the petition had been finished.

before mencioned or any others to the prejudice of your people in any of the premisses shall not hereafter be drawne into consequence or example. And that your Majestie will be graciously pleased for the further comfort and safety of your people, to declare that your royall will and pleasure is that in all these things aforesaid all your officers and Ministers shall serve you according to the lawes and Statuts of this Realme as they tender the honour of your Majestie and the prosperity of this Kingdome.

7 MAII, 1628.

Att a grand Comittee: Mr. Littleton in the chaire.

RESOLVED by this Comittee on the question that this Comission of Marshall lawe and all others of the like nature to be executed within the land att such tymes as are appointed by the Comission are against the lawe.

Mr. Speaker goes into the Chaire.¹

This resolution concerning Marshall law is confirmed by vote of the house.

Mr. Herbert in the Chaire att a grand Comittee for drawing the petition of right.

ORDERED that a Subcommittee shall take into consideration the penning of the head concerning the Comission for Marshall (law); and all the incidents to it shall be referred to the

1. Mass. MS. gives a long debate in this Committee. (pp. 153 verso-155)

2. Not in Mass. MS.

- Subcommittee that penned the other parts of the petition.

8 MAII, 1628.

Mr. Herbert in Chair att Comittee in the head of that parte of the petition concerning Martiall lawe.

It is humbly desired, wee pray that noe more such Comissions may be issued.

ORDERED that the petition of right now agreed on shall be faire written in paper; and that a message shall goe to desire a conference with the lords and that it shall be signified to the lords that this is in pursuance of former conferences with their lordshipps.

Mr. Littleton in the Chaire.

SIR FRANCIS SEYMOUR: 2 Subsidies in the end of July, 2 in the end of September, and the fifth in Maie following.

SIR RO. PHELLIPPS: 2 Subsidies in July, 1 in September, 1 Januar and the last in Aprilis.

SIR E. COKE: 2 Subsidies 10th July, one the 20th of September, one the 20th January and 20th Aprilis.

RESOLVED by question att this grand Comittee that the 10th of July next there shall be 2 Subsidies paid, one other the 20th September, one other the 20th Decembr and the fifth Subsidy the first of March next. That all papists shall pay these subsidies as they did last parliament.

1. C.J. gives the date October 20th . Mead to Stuteville, Court & Times, I. 354 gives it October also.

SIR JO.ELLIOTT: would have it reported to the King that not feare but love to the King hath bene the cause of this Cheerefulnes.

Speaker in the Chayre.

The resolucion for giving 5 Subsidies att the severall tymes, resolved on by a grand Comittee is confirmed by the house.

9 MAII, 1628.

A Complaint against Sir Wm.Welby, a deputy lieutehant of Lincolne, for comitting of one Park to prison that refused to pay some taxes and rates for millitary affaires and other charges for his Majestie's services.

ORDERED that Sir WM.Welby shall be brought hither by our serjeant too morrow morning to the house to answer whether he gave warrant for comitting of the said Park, and to answer the rest that is objected against him.

An Act for reformation of diverse abuses and disorders comitted on the Lord's Day, comonly called Sunday. 3 lectio. Passed this house.

An Act for the establishing and confirming of the foundation of the hospitall of Tho.Sutton, called St.James Hospitall. 3 lectio. Passed this house.

An Act for naturalizing of Sir Rob.Dyell, gentleman, one of the gentlemen of his Majestie's privy Chamber, and Geo. Kirke, also one of the groomes of his Majestie's bed chamber. 3 lectio, Passed this house.

SIR E.COKE: That a denizacion (which the King may grant to any man) doth enable any man to doe as much as an act of Naturalizacion;and the Children of a denizen borne after a denizacion shall inherit as if they were naturalized,but the children borne before denizacion have not the same libertie and priviledges.

ORDERED that Mr.Burgesse,Viccar of Whitney in Oxon,having refused to answere to a comittee of this house a charge of some delinquency for making and practizing a scandalous catechisme,is for his contempt comitted to the Tower during the pleasure of this house.

MR.SELDEN: would have Mr.Burgesse for his fault sent to Convocation house to be there punished.

ELLIOTT: That to send him to the Convocation house might be a meanes to preferre him,not punishe him;for that the King may send him hither.

SIR WENTWORTH: That since Burgesse stands mute he conceaves him to be guilty of what he is accused of ; would therefore have us to present his fault by petition to the King.

MR.MASON: if a man stand mute,he is not to be conceived as guilty of that fault,but for that he refuseth triall by the Law.Would have us send Burgesse to the Convocation house for sinse he hath not answered,if we send him by petition to the King,his Majestie will not hear it but referre the further inquiry of his fault to others.

- SIR E.COKE:All the clergy of England are present or rep-

resented in the Convocation house. We cannot judge the fault of Burgesse or him for it; because he belongs to another parliament house as it were. But for his contempt we may, and have done well to judge him.

12 MAII, 1628.

The Bill of 5 Subsidies now read.

Concerning the misdemeanors of the deputy Lieutenants of Cornwall in opposing the election of Sir Elliott and Corriton for knights of the Shire. Practized at the election (1.) power (2) scandale (3) menace; wrong to the gentlemen members of this house; contempt to this house; imploying posts, moving the Millitary men to be at the election.

1. The direction to the the house of Comons.
2. That they would take their owne tyme to come upp, notwithstanding the Comand of this house.
3. That the contempt in staying to hang a man condemned by marshall lawe, albeit the house had declared that Comission to be against Law... To sesse servants wages.

Petition of the deputy lieutenants of Cornwall, desire to be secured by their councell.

SIR PHELLIPPS: where there is matter of law, there this house hath used to admitt of councell; but when it concernes matter of fact it is not so necessary. Consider the greatnes of this offence; how it is extended in rumour and expectation. It concerneth the very being of our priviledges. Desires they may be heard and then if the (house) shall thinke fitt, the

house may admitt Councell.

SIR THO.WENTWORTH: That since it is said that these gentlemen of Cornewall are playne country gentlemen,he beleeves they were sett on this badd worke by some more active spiritt then their owne,and would have them called in and asked by whome they were sett on worke.

MR.L(AWRENCE)¹ WHITTACRES : In the Chancery,Councell is allowed to such as have comitted a Contempt to that Court.

SIR THO.HOBBY: would have Councell allowed them,since all Courts even in matters of facts...

SIR E.COKE: There is noe Councell allowed to a man called Ore tenas in Starr Chamber;where the fact is confessed noe Councell is to be allowed.Moveth that they may have noe counsell allowed for that parte of their charge which is by them confessed;but for what they have not confessed,would have them to have counsell.

ORDERED that the deputy lieutenants of Cornewall shall be called in severally to answeare on their knees att the barr.

SIR Wm.Wray att the barre on his knee:knowes not who drew the letters written against Elliott and Coriton;for it was drawne by the other gentlemen of Cornewall;and the first peticion presented to this house,knows not who wrought it; but it was brought to him by the Messenger.

Mr.Jo.Trelawny,att the barre on his knee: knowes not who

¹
 f.Lawrence Whittaker,Esq.,M.P. for Peterborough City,Northampton.
 Members of Parliament,I.476.This is the Diarist of the Long
 Parliament.

drew the letters. Peter Henden, Clerk to my lord Mohun, did wryte some of the letters; knowes not who wrote the petition but he saw it on the table.

Mr. Langdon, att the Barre on his knee: saith that Mr. Trelany, lord Mohun, himselfe gave the heads of the letter; the petition was drawn by himself.

Mr. Ed. Trelany, on his knees att the Barr: saith he knowes not who drew the letters, or the petition, but the petition was sent to him by one of the lord Mohun's men.

MR. CHANCELLOR (of the) DUTCHY: the abillities and care of learned Councell hath preserved many an innocent person. Where men doe confesse uppon ^{ogation} Interr in Starr Chamber, yet they have councell allowed them; it is tyme that an Ore tenibus should not have councell but that is a straine putten on the Subject and wisheth noe man to answer Ore tenas if he can avoide it.

SELDEN: These gentlemen can have no other use of Councell then to allege that what they have donne is noe contempt, where as we knowe it is soe; they have not directly answered here and thereby comitted a New contempt, and if there be a Contempt comitted in face of any Court, the Judges will destrayne it without allowing Councell.

ROLLES: There may be many circumstances that may aggravate or exterminate the fact, and therefore would have them to be allowed councell; there is a difference when a contempt

is donne abroad (thoughe it be to the Court) and when it is donne in the face of the Court, and yet he beleeveth if in such contempts, Councell be demanded it would not be denied.

MR. RI. SPENCER: that unlesse we allow the gentlemen Councell we make all their Contempts and faults equall, which, by what we have heard, is not soe.

MR. MASON: since there appeares a contempt to the house, would have the gentlemen comitted and that they should have councell.

ORDERED that the gentlemen, deputy lieutenants of Cornwall, shall be admitted to have their Councell to be heard at the Committee for their extenuacion.

RESOLVED that the Complaints against Mr. Burges, who made a scandalous Catechisme, shall be sent to the lords; and a Committee appointed to prepare the same.

RESOLVED on the question that the farther consideration of the King's letters and the alteration of our petition shall be deferred till too morrow morning; in the meane tyme Coppies to be delivered by the Clerk.

1

1. The King had sent a letter to the lords (Old Parl. Hist., VIII. 110-2; Ephem. Parl., 180-1) arguing that he had the right to imprison without showing cause, but promising not to use that power beyond the point necessary for the safety of the state. He makes other concessions and begs the lords to hasten the matter. At a conference, this letter, with the lords' additions to the petition of right, was delivered to the Commons. G. J., I. 896. Mass. MS. has the letter in full. (163-4)

13 MAII, 1628.

ORDERED on question by this house that Mr. Jo. Trelany and Mr. Walter Langdon are comitted to the Tower and Sir Wm. Wrey and Mr. Ed. Trelany to the Serjant as long as the house thinkes fitt or untill they have here confessed their faults; and that they shall, att the assizes in Cornewall, make an acknowledgement of their fault in such way as this house shall thinke fitt.

14 MAII, 1628.

Mr. PYM reports from the grand Comittee of Religion, a plott and an attempt to overthrow the mayne state of the government of this Kingdome. 5 points:

1. That Dr. Mainwaring, by 2 Sermons, hath endeavored to infuse¹ into his Majestie an opinion of an absolute and boundlesse power. 17 page of 1st Sermon.

2. to lay a Subjeccion on the conscience of the Subjects to such a boundlesse power. 19 page, 1st Sermon.

3. his endeavor to irritate his Majestie's wrath against those that refused the loanes; his taxes of impiety towards God. 14 page and 47 page and 28 to 46 page...

2

1. The two sermons, Religion and Allegiance, were preached July 4th and 29th, 1627. The page references given by Nicholas hold. Dr. Roger Manwaring was one of the King's chaplains in ordinary. Old Parl. Hist. first mentions this charge on June 3rd. C. J. and Mass. MS. support Nicholas' date.

2. This is the second sermon.

4. He hath as much as in him lieth, bereaved the Subject of the propriety of his goods. 2. Sermon, 36 and 37 pages.

(5) His undermyning of parliaments, and casting Scandall on the proceedings of parliaments. 1. Sermon, 26 and 27 page. His odious Comparisons, that these refuse the loanes are like to popish Recusants. 1. Sermon, 31 and 32 page. to Jewes. 2. Sermon, 47 page. The ~~Th~~ Horace, Dothan, and Abiron. etc.

Th These sermons were preached att Midyear when the loanes were levyed, and printed att Michelmas when there was endeavor to have gotten a Judgement in that Case. Which shewes there were attempts, both by Spirituall and humane lawes, to overthrow the liberties of the Subject. He went to hell for prooffe vizt. to Jesuits and Jewes, yet he had a worse hell within himself, for he made all things worse then his authors meant, as in **Swarens(?)** he left out what he thought made against him and perverted diverse other authors.

Opinion of the comittee was: That a Bill of attainer should be drawne against Dr. Mainwaring to attaint him, and that he should be excluded out of the generall pardon.

RESOLVED on question by this house, That this complaint of these Crymes shall be transmitted to the lords; and the former Subcommittee shall prepare it for the lords and a Memorandum to be entered in the Clerk's book that Dr. may be excepted out of the generall pardon.

SECRETARIE COKE: would have us take care to Charge Dr. Mainwaring 1) with particulars and not only with generalls.

2) with direct points, not with inferences. 3) with points concerning Temporall businesses, not points of divinity; for we have better and more undeniable right to punishe and meddle with these that seeke to prejudice parliaments and our priviledges.

SIR THO. WENTWORTH: That we conceive not the King's letter¹ to be a parliamentary way. Would not have us doe any thing uppon the King's letters because not sent to us and the King hath sent to us to avoide all questions and debates, which will necessarily arise if we doe any thing on this bill. Would have us decline the letters; and desire the lords to joyne with us in our petition, assuring their lordshipps that we are as great lovers of the King's prerogative as of our owne liberties.

SIR N. RITCH: would have us send a Message to the lords to tell them that we thought fitt to decline the King's letters 1. because we conceive it is noe parliamentary way. 2ndly, to avoide debate; and would not have us to say because it was sent to the lords and not to us.

ORDERED that a Message shall goe to the lords to signify to their lordshipps that this house is redy to give a meeting

1. This has reference to the proposal of the lords that they should accept the King's letter and accomodate the terms of the petition to it. Old Parl. Hist. is a little confused as to dates in this matter, placing a speech agreeing with this one in substance, on the 12th. C. J. (1.897) agrees with Nicholas. Mass. MS. has "Concerning the conference of the lords about the petition of right".

with their lordshipps uppon a conference when pleaseth them.

An Act against begging of forfeiture before attainer.¹

2.lectio.

15 MAII, 1628.

Att the house.

ORDERED on question, That Sir Jo. Stowell and Mr. Waldron² shall be discharged from further attendaunce, till the further pleasure of the house be knowne; and it is the sence of the house that Sir Jo. Stowell and Mr. Waldron shall pay the charges to Serjant.

16 MAII, 1628.

RO. PHELLIPPS: Mr. Baber was sequestred the house for³ billeting of Soldiers in Wells where he is recorder, without warrant or Comand or authority. By billiting, whole Countyes are imprisoned and restrained, and is of worse consequence then the imprisonment of our persons. We all complayne of this billiting, and this Baber, being a member of this house, is now within

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1. A report of this conference is given in Old Parl. Hist., VIII. 113-116.
 2. Deputy lieutenants against whom complaints had been made. For a full account of these proceedings see C.J., I. 898.
 3. Mass. MS. has the following entry: "Sir Walter Earle reports from the Comittee of deputie leuietenants, Mr. Babour hath presented himselfe at the Comittee and there comes in noe new complaints there against him." (p. 168.)

our power to be punished; and we may, by punishing of him, lett all others see how sensible we are of the billeting of Soldiers which is such a burthen. That Baber hath given out some ill speeches of this house since he was sequestred.

Robt. Powell's petition against Mr. Jas. Baber, shewing that Mr. Baber reported that the parliament would breake of (f); that himself stood only for the King. Before his suspencion he was Cornelius Tacitus; but now he is Cornelius publicus. That his being sequestred hath made him knowne to the King and would be worth him 500^l.

SIR ROG. HOPTON : That Powell did confesse that he raked¹ upp the complaints against Baber, that his being a parliament man might hinder the proceedings of his suite in Starr Chamber against Baber.

²
An Act for encouragement of fishermen trading to Newfoundland, Virginia, New England. 3. lectio. Passes this house.

An Act to restraine and prevent some disorders that are or may be in the Ministers of God's word. 3. lectio. Passed this house.

SIR D. DIGGS: Since there are so good lawes and provisions to prevent the disorders of the Ministry and Clergy;

1. Sir Roger Hopton, M.P. for Wells City, Somerset. Members of Parliament, I. 477.

2. Mass. MS. (168 verso) "theis complaints were referred to a Comittee to bee examined but nothing was proved." The speech by Hopton is omitted.

and that the Church of England is the best governed of any Church in Christendome, and there are the best men in it to governe it that are in any Church in Christendome and it is to be doubted this Bill will cause a scandall on our Church, as if there were noe lawes against such offenders.

SIR HEN. MARTIN: saith that Magna Charta was gotten as well by the blood of the Clergy as well of the layty; and to shew it, the Originall Charter of Magna Charta is left with the Archbishop of Canterbury. We are curious to preserve Magna Charta for the layty, let us not then take it away as we doe by this Bill, all the liberties granted to them by the Charter, where it is said that the Clergy shall be tryed only by their owne Jurisdiction. It hath bene often said that any Statute made against Magna Charta is voide. The Civill Lawe is a very severe law if well executed.

SIR ROB. HARLOE : Since Ministers are by this Bill to
be tryed by a Jury of 12 men att ²the Assize, Sessions, or...
1. 1

MR. SPENCER: that he is against this Bill; for it aymes

1. This speech is different in Mass. MS. - "The reformation is desired onely for enormous facts, for other matters they may have their priviledge to be tryed in suo; if wee goe about to reforme the Church it is the honour of our Church, all the scandall now is that wee have drunken ministers."

(p. 169)

2. Sir Robert Harely, M.P. for Evesham Borough, Worcester. Members of Parliament, I. 479.

att alteration not reformation; for it layes not more care of punishment of disordered Ministers, but it altereth it; for it gives power to the Justices of peace. 2. Preamble and body agree not, for it saith there are many olde and learned Ministers, and yet this Bill doth take the government and punishment of the Clergy from their Jurisdiction, or att least submitted them to be by Justices of peace. And this will rather...

MR. SANDERS : That this Bill makes a man Judge in his owne Case; for if a patron, being a Justice of peace and powerfull in his Country, shall be desirous to be ridd of him, will take occasion to, by this lawe, quarrell with the Incumbents of his parishe that he may againe bestowe that benefice.

MR. LITTLETON: that he is against this Bill because it is not mencioned in it that the Jury that shall trye the Clergy in these Cases shall be men of att least 100^l a yeare; and because by this Bill, Justices of peace may ayt Sessions...

MR. SELDEN: saith he is against the Bill. But saith that an act of parliament may alter Magna Charta. That Ministers and Clergy men are alreddy subject to laye Jurisdiction and may now be punished by Justices of peace. But the reason why he is against the Bill is because this is a lawe without all example; for by this lawe the Ministers, for being drunke, shall

1. John Saunders, Esq., M.P. For Reading Borough, Bucks. Members of Parliament, I. 474.

loose his benefice, and yet both the Justices of peace and the Jurymen that are to judge and passe on a Clergy, shall pay but 5 s. for being drunke which houldes noe proporcion.

SIR NAT.RITCH: that the Clergy man should be more cautious and severer punished for drunkenness then a lay man; for his lief is an example to all men, and 5 s. will not satisfy for the losse of soe many Soules as the example of drunkenesse in a Minister may cause.

MR.SHARLAND: That good ministers are called Angells and wisheth that we take heede that whyle we seeke to punishe devells we doe not make snares for Angells. That if ignorant or knavishe witnesses that see a good Minister riele or stagger by any **imperfeccion** and shall give evidence of this to an ignorant Jury, it may undoe a good Minister. He had rather 3 evil Ministers goe unpunished, then one good minister should suffer by it.

After the dispute before read there was a Clause of
¹probation put into this Bill and soe it was passed.

An Act to enlarge the libertie of hearing the word of God preached. 3. Lectio; this Bill is passed.

An Act that Clergy men shall not be Justices of peace.
 3. Lectio; passed this house.... Except Bishopps, Deanes, and

1. Mass. MS. has more speeches; but some of Nicholas' speeches are fuller than the same ones in Mass. MS.

Cathedralls, Vice Chancellors, etc.

An Act for Naturalizing Sir Dan. de Lynne, Knight, borne in Germany. 3 lectio. This Bill is passed.

17 MAII, 1628.

Sir RO. PHELLIPPS: that the Judgement in Exchequer¹ about 8. or 10. Jac. , for 5 s. on Currants was, after a great debate in parliament,² declared to be against Lawe. Would have this imposition on Currants taken into consideration by a Committee.

DELBRIDGE: that there is an imposition of 22 d. laud on tobacco that is sold but from 2 s.- 4 d.; and that which is worth but 18 d. the impost is 9 d.

NAT. RITCH: would have us on Munday att a Committee of

1. There is evidently something omitted here. The following entry in C.J., I. 899, throws light on the cause of this debate.

"Mr. Spencer reporteth from the^m Committee for the Turkey Company. Seizure of Currents, above one[^] year sithence, for non-payment of an imposition of 2 s. 2 d. Some imprisoned...

That the merchants, besides this Impost, which is 9 per cent, have paid 17 per cent already, so as the sum demanded is 26 per cent for Impost. The petition from the merchants trading the Levant Seas, read, and the state of the cause annexed."

Mass. MS. has six speeches preceding Phillipps' and one after Riche's.

2. Mass. MS. has 7. or 12. Jac. *find this reference*

the whole house take this busines of impositions into Consideracion, concerning settling of his Majestie's benefitt on trade; for this is a busines of greatest importance to the King and well being of this Kingdome; and that then we may have Care to advance his Majestie's service and benefitt.

MR. CHANCELLOR (Of the) DUTCHY: that the 2 s. 2 d. imposition on Currants was laid above 10 yeares since, and being complayned of in 21. Jac., the parliament thought fitt to doe nothing in it. And the cause of this question now for the imposition of 2 s. 2 d. on Currants is risen only on a difference betweene the King and the E(arle) of Arrundell.

ORDERED that on Monday Morning Sir D. Diggs shall make¹ report from the Committee of trade, and that then the house, att^{be} a grand Committee shall further considered this imposition on Currants, and other im[^]positions on merchandize or wyne and then the Bill of Tonage and poundage shall be considered of.

ORDERED that SEcretarie Coke shall move the King from the house that the merchants may have their Currants putten in security because they are perishable, they entering into Bond to pay what shall appeare to be due.

ORDERED that Sir Edm. Sawyer shall be here Monday morning² and then bring with him the new booke of rates which he hath

1. These orders are omitted from Mass. MS.

2. Sir Edmund Sawyer, M.P. for Berwick-on-Tweed Borough, North-
umberland. Members of Parliament, I. 476.

prepared, if he hath any, and the officers of the Custome house are then to attend the house.

ORDERED that Sir Edm. Sawyer, being a Member of this house shall be required to be att a Comittee in the exchequer Chamber this afternoone att 4 o'clock, and that this Comittee shall have power to send for Mr. Dawes and Mr. Clever, and any others to inquire whether there be any new Bookes of Rates printed or, in drawne copy, and to examyne the same, and by what authority they are printed.

SIR RO. PHELLIPPS: That some of the privy Councell may from the house againe beseech his Majestie that the wyne Merchants that are comitted may be sett att libertie.

An Act Concerning Citacions issuing out of Ecclesiasticall Courts. 3. lectio. This Bill is passed this house.

An Act concerning Subscripcion. 3. lectio.

MR. SPENCER: That he doubts this Bill will sett upp againe all silenced Ministers, and therefore cannot give his voice for it; for he would not have any to be suffered to preach, who will not subscribe to Ecclesiasticall orders of

1. The Act read as follows: "That the statute (13. Eliz.) bee observed and that noe person shall bee enjoyned to subscribe otherwise then is appoynted in the Act, and that every sentence against them that refuse to subscribe, contrarie to the same bee voyd". (p. 172 verso)

this Church.

The further dispute of this Bill is deferred till Monday.

SIR E.COKE reporteth from a conference with the lords:
That their Lordshipps have donne nothing concerning our peti-¹
cion of right but only an addicion to make it the more passable
with his Majestie,att the end of our said petition of right."We
humbly present this petition to your Majestie,not only with a
Care of preserving our owne liberties but with due regard to
leave entire that Soveraigne power wherewith your Majestie is
trusted for the proteccion,safety,and happiness of your people."

PHELLIPPS: this addicion is of great importaunce,and to
treate of it in an afternoone is not fitt;moves that we may
deferre the debate (of) this till Monday morning.

ORDERED that a Message shall be sent presently to lett
the lords know that the house conceaves this addicion to be
of waight;will take it into Consideracion on Monday morning.

19 MAII,1628.

An Act for naturalizing of Alexander Leviston.3.lectio.
Passed this house.

An Act for naturalizing of Frees,borne...

An Act for exempting the Counties of Salopp,Glocester,
Worcester,and Hereford with the Citiees of Glocester and Wor-
cester,out of the Jurisdiccion of the lord president of Wales.
2 lectio.Comitted (to) all the Knights and Burgesses of Wales

1. The entire speech is in Mass.MS.,172-173 verso.

and the Marches.

20 MAII, 1628.

SIR E.COKE reports from the Conference that the lords have agreed to all partes of our petition, ¹saving the word "unlawfull". For that word "unlawfull" doth trench too highe and is too sharpe, it may be understood against the lawe divine, lawe of nature, and lawe of Reason; and it may imply proceedings against the lawes. And their lordshipps desire to have it put downe in place of "unlawfull", an oath "not warrantable by the lawes and statutes of the Realme".

MR.SELDEN: knowes noe reason why we should not take "not warrantable" instead of "unlawfull".

MR.GLANVILLE: would not have "not warranted by law", but "not warrantable by law"; for the defect of a Comission may make a thing "not warranted", but "warrantable" concerns the nature

1. A conference held on the 20th (C.J., I.901) concerning the alterations proposed by the lords, which the Commons had rejected on the 19th and 20th. The two houses ^{were} hastening the matter in obedience to a message from the King, delivered to the Commons on the 19th. (C.J., I.900) "That he desired not to interrupt our business with messages; but, that some pressing occasions, which have lately happened, make him resolve to go to Portsmouth upon Wednesday next; and therefore wisheth a speedy proceeding with the business here."

of the things;and would have us take "not warrantable",in place of "unlawfull".

1

MR.PYME: if a man aske why a thing is unlawfull,it must be answered,because it is not warranted by the lawes and Statutes of the Realme;and a thing that is not warrantable by the lawes is unlawfull.Would have us yeelde to the lords.

MR.CORITON;Hath heard nothing but that the oath for the loanes was against the law of God,the realme,and reason;but if the King have it,he is to governe us and therefore would yeelde to the lords'word.

SIR D.DIGGS:saith that an Emperor,finding fault in a busines of importance with an important word that was put in by one of the Senate,said he would have this word;the Senator went away without making any answere,and being asked why he replied not to the Emperor,said because the Emperor comanded 50 legions.

2

1.Mass.MS. gives a short speech by Mr.Brown and then begins the debate on the addition,which was an entirely different matter matter,without any break whatever. The debate on the addition came on the afternoon of the same day,according to Nicholas. See note 1 on page 173 .

2.Favorinus,a Greek sophist and philosopher,had a dispute with the Emperor Hadrian in which he allowed himself to be very easily convinced.On being asked why he had done so when he had the better argument,he replied that it was foolish not to agree with one who commanded thirty legions.

SIR PET.HEYMAN: would have us take both "not warranted" and "not warrantable".

SIR JO.ELLIOT: That we may come to a happy conclusion of this great busines,it being not much better or worse for him or the King which to have it in,would have us for present to laye aside the resolucions of this point till we have accomodacion of the addicion propounded by the lords.

MR.LITTLETON:That there is noe reall difference in his opinion,betweene "not warrantable by lawe",and "unlawfull"; and would have us now to resolve whether to have it.

MR.STROOD:That is a difference when a man doth a thing contrary to any Comand and when he doth it without any comand; he thinkes "not warrantable by lawe" is not of soe much force as "unlawfull".

SIR E.COKE: if a thing be warrantable by lawe,it is lawfull,and soe contrary; and unlesse some of the lords have vowed that they will not use the word "unlawfull" he knowes not why they should desire this change;and if any of their lordshipps be votaries he would not make them breake their vowe.Warrant is ever taken in a lawfull sence;and if a quo warranto be brought against any man for holding a court leete and giveth an oath for the same,it is a sufficyent plea by such a Statute.

RESOLVED that "unlawfull" shall be changed and in place of it shall be,"not warrantable by the lawes or the Statutes of this Realme.

20 MAII, 1628. opus midii.

RESOLVED by debate on the question that wee will not agree to the addicion offered by the lords to be putt to the foote of our petition of right to the King.

1

21 MAII, 1628.

2

MR. SELDEN: that every Minister is to take and subscribe to the oath of Supremacy, the articles of our Church, and to the booke of Comon prayer; that there is nothing conteyned in it but what is agreeable to the word of God. He thinkes the Bill now here passing against Ministers Subscripcions doth dispenche with such as will not subscribe to the Article which conteyneth those, innocently; and therefore is against passing it.

SIR HEN... : That noe man is admitted to be a Minister
3
in any Church that will not subscribe to the authority and

-
1. The debate on the addition is found in Old Parl. Hist., VIII. 118-122, where it is incorrectly dated the 17th. (See C.J., I. 901) Gardiner has the following note: "Rushworth... gives a debate as taking place on the 17th which is really the debate of the 20th, together with a jumble of two speeches of Wentworth's foisted in from the 22nd and 23rd and a speech of Selden's from the 22nd" Mass. MS. has the debate correctly but dated the morning of the 21st
 2. Mass. MS. gives this debate on the 20th. There are only a few of these speeches there but there are a few other short ones. C.J., I. 902, corroborates Nicholas' date.
 3. Sir Henry Martin. See Mass. MS., 177-verso.

discipline and doctrine of that Church; our liturgy was made by undoubted authority, by the Supreme head and the 3 States, and soe was noe liturgy in Christendome; our Liturgy is the same that was before in tyme of popery, but that superstition which was added to it, is cast out of it. How can parishioners like of the Comon prayer or the preaching of a Minister that contemneth our Comon prayer? If the booke of Consecration of Ministers and Bishoppes be conremned, and the booke of Comon prayer be despised we bring by contempt of the first we shall bring our Clergy to be despised, and by the pther our prayers; and soe we shall be in great contempt and slighted of all the world.

MR. ROUSE: that the booke of Comon prayer passed by acts in 5.E.6.¹, differs from what is now extant.

SIR NATH. RITCH: That the question now² by this Bill is whether it shall be in a Cannon to cast a man out of his freeholde; for if our freeholdes may be taken away other then by act of parliament, farewell all our libertie. There are many addicions made to the Booke of Comon prayer which passed by Act of parliament in 3. or 5. E.6; and there is a Cannon that the Minister that will not subscribe to the Comon prayer booke shall be deprived of his benefices, which is his freeholde.

MR. SHARLAND: That the question by reason of this Bill, is

1. Francis Rowse, M.P. for Cornwall. Members of Parliament, I. 474; or Anthony Rowse, M.P. for Wilts. *ibid.* I. 478.

2. Statutes of the Realme, IV., Pt. I. 130.

*Alfred Edmund Francis Rowse.
He was a theological authority.*

whether a Cannon not confirmed by an act of (parliament) shall be or is of such force as it shall put a man out of his freehold without any act of parliament; for there is noe act of parliament that a minister that will not subscribe to the Comon prayer booke shall be put out of his benefices or freeholdes.

MR.DYETT: That a benefice is an ecclesiasticall inheritance or freehold, which for ought he knowes is subject to an Ecclesiasticall Jurisdiction; besides the cannon saith a minister in such case shall be deprived of his benefice, which is not a disseizin or turning out of a freeholde, by reason of an incapacity in the person of such minister that will not subscribe.

The further debate on this Bill against Subscriptions till Saturday.

ORDERED that a Committee shall take view of and consider the Booke of Comon prayer made in 5.E.6 with power to send for the printer to know how and by what order it was altered.

23 MAII, 1628.

1

Concerning the addicion offered by the lords to be in-

1. This debate took place on the 22nd in a grand committee with Serjeant Hoskins in the chair. (C.J., I. 903) There had been a conference the preceding day with the lords, at which they had held to their addition. C.J., I. 902. Mr. Noy and Mr. Glanvill opened the debate with their reports from the conference; they were followed by Mason (Old Parl. Hist., VIII. 123-9). Mass. MS. and Nicholas follow the same order of speeches. Mass. MS. is fuller.

serted into the foote of our petition of right.

MR.BROWNE: first concerning the word "leave" in that addicion;if we say we leave,it will imply that we have meddled with the Soveraigne power;if we say we would have new lawes and leave that Soveraigne power entire,we are where we were; for Soveraigne power hath such a latitude as we know not what [it] is,or can,or will doe.Former tymes have bene soe farre from such Savings as they have laid a Curse on any that should goe about to infringe the liberties of the Subject,we have not in our petition sett downe nothing but what is our right and that which toucheth on the Soveraigne power.Thinkes that if we admit of this addicion we overthrow our petition.

MR.HACKWELL: That this addicion is either idle or operative;if idle,it is neither worthy the wisdom of the lords to offer or us to accept;if operative,then it is either to strengthen or weaken.If we admitt of an addicion that destroyeth the petition then is the petition felo de se.

SIR H.MARTIN Conference of our reasons consistes of a legall parte and a rationall parte;the first he leaves to the lawyers. The rationall parte is that we should not stand against that which we ourselves have ever professed,and since it is only to leave that our Soveraigne parte which is for our good,we conceive that this addicion marres all our petition,for it is an excepcion to our petition.Soe when we say that we ought not to lend,and put in this excepcion or addicion, there is a fallacy a bene devises a male conjuncta;there is

nōe parte in this addicion but he would yeelde to it, but not to be joyned to our petition. It is a dangerous addicion for by saying that soveraigne power for our good doth imply the king hath a double Soveraigne power, one for our good and one other for our greif; soe that it is soe farre being terminibus d as it is Terminas ad angreas. Soe Concludeth that this might serve to answer the rationall parte of the lords' Conference.

SIR NA. RITCH: that att this tyme we have most cause to require the greatest strengthening of our liberties and greatest reparacions, for that the violacions of our liberties have bene grestest. Heretofore it hath bene desired and granted on lesse violacions then now have bene; that a Curse might be laid, and excommunicacions on those that should breake the liberties. And that the Judges and King have taken new oaths; and other parliaments have proceeded to punishment, execucion, and banishment of actors of lesse breaches on the Subject's liberties then now have bene.

Chancedlor Dutchy: saith he perceaveth this is an busines, and it is easy for a man to slipp, and soe to make the remedy worse then the disease; would therefore have us decline further disputes, and proceede to the question. That we may goe to the lords, and tell them that we decline the addicion and desire their lordshipps to joyne with us.

MR. CORRITON: That the king's promise was that we should have almost any reparacion for our liberties, by Bill or

petition and this hath drawne us on to this petition, and would have us debate this day and too morrow if neede be, that we may goe on with deliberacion.

MR. LITTLETON: if the lords meane that Soveraigne power which is expressed in this addicion is above what we have alledged in our petition, we understand it not; for then our petition is nothing worth.

SELDEN: if we agree to the annexing of this addicion then **Sumarily** it will be that we shall petition that there may be noe loanes, noe man imprisoned without shewing Cause, noe marshall lawe, except by Soveraigne power. And this, if we annex the addicion to our petition, will be the Sum of all our desires. It was excellently **censured** by Mr. Mason. There ^{was} never such a saving of the King's right in the articles whereon Magna Charta were grounded or in Magna Charta itself, nor in any other act of parliament nor petition of parliament.

Concerning what the Speaker said to the King is the of us all then; but that is noe consequence that we should now therefore insert this addicion. If a man seeke for his right of lands in a Manor which lyeth mixed with the King's and the King, hearing of it, sends for such person and telles him he heares he is questioning of his Majestie's Manor, he will say he intends not to touch on his Majestie's right; and yet afterwards brings his writt of right in the Chancery for this Manor of the King's, it will not then be fitt for such partie to make in such Clayme, a saving of the King's right.

28.E.1. : The saving in that parliament¹ Roll was added after it was past both houses, albeit otherwise in that Roll and in the printed bill. For it is mencioned in a booke that is in the Library att Cambridge which came out of the Abby of Abbington, that the Subjects, when that roll was proclaymed and heard, that saving did fall into a Cursing. 42.E.3 :whatsoever² lawe or Saving contrary to Magna Charta or liberties of the Subject was made before that tyme was voide; and soe thoughte this saving in 28.E.1 were then put in, yet it is by the lawe voide.

SIR TH. WENTWORTH: That expence of tyme in this busines is very prejudicyall to us; and he thinkes, uppon what hath been alreddy alledged, it will be well for us to resolve to tell their lordshipps that as the addicion is now penned, wee cannot yeelde to it. That my lord keeper said that if this petition had bene in manner of a law, then this addicion had amounted to a Saving; would not have us passe it by question, that we will not admitt of this addicion, out of respect to the lords.

ORDERED that a Subcommittee shall make a Colleccion of all the reasons alledged either against the addicion or to confirme our Resolucions; to present the same to the house this afternoone att 4 o'clock.

1. Last clause of 28.E.1. Statutes of the Realm, I. 141.

2. Ibid., I. 388.

23 MAII, 1628. Afternoone.

1

MR. GLANVILLE: reports from a Conference with the lords: That the lords say that they wishe us to doe something concerning the Substance of the addicion they offered to us, by way of manifestacion, protestacion, declaracion, or any other way.

RESOLVED to take Conference of the lords' new proposicion too morrow morning.

24 MAII, 1628.

PHELIPPS : such proposicions as desired by the lords
2
is unusuall, inconvenient, and unnecessary.

SELDEN: noe Subcommittee to accomodate any Manifestacion, or proposicion, as desired by the lords. Since both houses have bene soe long in debate on this busines for which the lords

1. On the morning of the 23rd the debate was continued and a conference prepared for. At this conference Martin, assisted by Riche and Pym, presented "the rational part"; while Glanvill, Selden, and Mason presented "the legal part". C.J., I. 903. Glanvill's speech is given in Rushworth, I. 568-579; in Mass. MS. 185 verso - 193; and a short part of it in Ephem. Parl., 186-8. Martin's speech is also given at length in Rushworth, I. 579-586; and in Mass. MS., 193-196; and differently in Ephem. Parl., 188-194.

2. Mass. MS. gives a longer speech. This debate is much longer there.

desire a conference between 2 Subcommittees of both houses; could not hitherto agree of any such thing, it is not fitt or likely that a Select Committee can doe any thing. It is alsoe unusuall that soe great a busines as this is, should be entrusted to soe few as a Subcommittee.

NAT.RITCH: That the admitting of a Subcommittee to accomodate the busines of the enlarging the libertie of the Subjects or the diminishing of the prerogative, will be an argument that we have donne something to doe that which we all deny ever to be in our intencions.

RESOLVED that a Message shall be sent to the lords to desire a conference of both houses and that...

ELLIOT: 3 reasons given why we should not goe to the lords with a Subcommittee: 1) unparliamentary. 2) unnecessary. 3) inconvenient. To the first, it is knowne to all men. 2) that our petition is soe just and necessary that there needes noe Manifestacion, for that we have not trenched any thing on the prerogative nor enlarged our liberties. 3) inconvenient for this house, that is soe great a busines it should now be refereed to a Subcommittee of a few. For Committees leade the house very much alsoe in respect of the treaty, it may be dangerous to the parties we might use, the lords being greater per-

1. In Mass. MS. this order reads: "Ordered that a message bee sent to the lords and that it bee desired that the lords give us a free conference at a Committee of both houses."

sons it may expose them to the King's displeasure, if it succeeded not well, the parties **interested** and ~~may~~ be blamed by us and the rest of the Country.

SIR THO. WENTWORTH: that to yeelde to such a Subcommittee is not unparliamentary; for in Flood's Case, there being Committees of the whole houses about that busines, it was afterwards by the houses yeelded to them (and) accomodated by a Select Committee. And by saying that there is an inequallity betweene the lords and us, the same may be said of a generall Committee of both houses.

SIR D. DIGGS: That Flood's case is different from this; for that was to accomodate our yeelding to a thing we were desirous to be ridd of.

Reasons why we doe not yeelde to a Subcommittee for accomodacion of a Manifestacion, etc. -

1. to consent to treat by a Select Committee will imply all be donne amisse and therefore we thinke not as necessary to have an accomodacion.
 2. The strength and wisdom of the house is in the multitude.
 3. it will delay the great businesses of the King and Christendome which depende on our expedition.
- and to conclude: That we desire their lordshipps to joyne with us.

1

1.C.J. adds "in our petition"; which makes the meaning clearer.

26 MAII, 1628.

SIR E.COKE: 3 pattents for Greeneland fishing, vizt. 2. and 3. Phil. & Mary; 8. Eliz. and 11. Jacob.; and the last pattent is very large and voluminous.

¹
PHELLIPPS: That this pattente for the Greeneland fishing hath diverse clauses in it to the prejudice of the libertie of the Subject. Would have the house to declare that the fishermen of Hull and Yorke should have leave to send to that fishing this yeare 500 ton of shipping as they desire, notwithstanding the pattent of the Greeneland Company. And that afterwards the house would take into further Consideracion that pattent.

CORITON: would have the pattent of the Greeneland Company condemned here presently as a greevannee.

SIR E.COKE: saith we cannot sentence any pattent to be a greevaunce, for we saw that in Flood's Case, we then exceeded our power. That we may here in this house declare or state to be a greevaunce in Creacion and execucion.

SIR TH.WENTWORTH: That for that the Muscovia Company doth enhaunce the prize of oyle, and by keeping it all in their owne hande they make as much benefitt by selling of one thousand tons of Oyle, as by the sale of 2000 tons they have used and ought to doe. Therefore moveth that the Muscovia Company may

1. The entry in the Journals reads: "That nothing resolved at the grand Comittee for grievances; but inclined that the Letters Patents, 1 and 2 Ph. et Mar., and the Act of Parliament, 8 Eliz. extended not to this." 11. Jac. is the date of the patent. C.J., I. 899.

be sent for to the house, and that the Speaker may here in the house enjoyne the Company to permitt 500 tons of shipping to goe from Hull and Yorke for that fishing in this yeare.

MR. RITCH: doubts it will not stand with the Justice of the house to make a declaracion against a pattent before we have examined the pattent; but wisheth the Muscovia Companie may be sent for, and to tell them, that if they shall not permitt the Hull men to goe with 500 tons of shipping, then if uppon Consideracion of their pattent we shall finde their pattent to be a greavaunce, we shall then doe our best to make them pay the charge to those of Hull.

MR. THRESURER: That uppon hearing of the difference betweene the Muscovia Compaby and those of Hull and Yorke, tending to fishing att Greenland, Alderman Freeman from that Company did say that if those of Hull would undertake to defend and maynteyne that fishing against strangers the Muscovia Company would give it over to them, but those of Hull refused to undertake the same.

MR. Cage: That those of Hull had the last yeare leave to send to that fishing 600 ton of shipping, and they desire this yeare but 500 ton which will content them.

There is noe order made in this busines but it is left tacitly, that the aldermen now here may intimate to that company that the sence of the House is that those of Hull ought to send this yeare 500 ton of shipping to that fishing.

1. Nicholas' account of this debate is fuller than that of Mass. MS

2. William Cage, Esq., M.P. for Ipswich Borough, Suffolk. Members of

SIR E.COKE: report from a Conference with the lords Concerning the petition of right; the lord keeper said it had bene long in consideracion as the waight of that busines requires; that their lordshipps have voted and unanimously agreed to our petition. The lords desire that we would thinke of some law to regulate by way of Bill, for levying of charges for Military causes, and to regulate the power of deputy lieutenants.

ORDERED that the bill for charges moved by the lords, are to meete about it too morrow in the afternoone. The petition of right to be presently read and voted here.

The petition was this morning twice read and then voted and passed this house.

1
2 JUNII, 1628.

The king's answeare to our petition of right in haec verba: The king willeth that right be donne according to the lawes and Customes of the Realme, and that the Statuts be put in due execucion that his Subjects may have noe cause to complayne of any wrong or oppression contrary to their just rights and liberties, to the preservacion whereof he houldeth himself in Conscience aswell obliged as of his prerogative.

2

1. The petition may be found in Rushworth, I. 588-590; and in Ephem. Parl., 175-7.

2. This answer^o was delivered in the presence of the Lords and Commons on the 2nd.

3 JUNII, 1628.

ELLIOTT: This answeare is, in the great busines of our
¹
 liberties, that which hath cost us soe much tyme and paynes; that
 worke was the labour of more then now are in the house which
 now is thin. Moveth that in respect of the importance of this
 busines, the generall consent that was given to the petition,
 that our further Resolucion (be deferred) till another tyme,
 Friday next, and in the meane tyme our house to be called.

ELLIOT: To consider the disturbers of tymes...
²

6 JUNII, 1628.

The sendeth a Message, explanatory to a former Message,
 leaving us to our liberties and rights.
³

-
1. The King's answer had just been read.
 2. This is a second very long speech, given in Mass. MS., in which Elliott considers the "state and affaires of the Kingdoms"; it is a fore-runner of the "Remonstrance".
 3. This message is in Ephem. Parl., 203. The earlier message referred to was delivered June 4th and gave notice that the session would end June 11th. Old Parl. Hist., VIII. 167-8. The Commons had ignored that message and the King, on the 5th (C. J. I. 99 909) sent another requiring that proceedings for the day cease and no committees meet in the afternoon. An earlier one the same day commanded them not to enter upon any new business. (Old Parl. Hist., VIII. 190) The Commons were much disturbed by this message; and this one on the 6th was designed to soothe their feelings. See Court & Times, I. 360-1; and Lowther, 36-8.

MR. ALFORD: would have us proceede on our parte to see if we cannot get a better answer to our petition.

ELLIOTT: He is now as full of joye as yesterday of another passion; he conceaves that when his majestie shall Consider that his answer to our petition doth not give us satisfaction he will of his goodnes give us, without any hate for us (when we must goe to the lords and that will breed delay) ample satisfaction. That that which drew us on to Consideracion of our declaracion was the safety of the honour both of his person and estate, and that therein we will carry ourselves temperately and that there might be a breif declaracion to this purpose; the scope whereof should be only the safety and honour of his Majestie's person and estate, without touching on his person or counsell, only on such as we conceive faile in their obedience or loyalty.

CORRITON: That since both houses have agreed that those things expressed in our petition are our rights, he hopes no man or minister dares doe against it; and therefore he will not stand soe much on a New answer. Would have us only make a declaracion (of) our intencions to his Majestie.

1. This speech is not given in Lowther's account; but there are two others by Rudmerd and Phillipps. All three speeches are given in Mass. MS. The following speech of Elliot's indicates that all three preceded his own. (Lowther, Notes in Parliament, 1628. (June 4th - June 26th) MSS. of Earl of Lonsdale, Royal Com. on Hist. MSS., 13th report, app. pt. VI.)

PYMM: an answer hath noe relation to the petition nor hath any proportion to the petition; the answer being left at large to the lawes, whereas we have in our petition alleged **certeyne** lawes.

1

SIR JO. STRANGWIDGE: he would first have an explanation of the King's answer, for that he thinkes it not full nor satisfactory; and then to fall to the Remonstrance.

MR. VAUGHAN : the King hath said he would not departe
2
from the answer given to our petition, for he thinkes the answer more satisfactory then is conceived by some, and doubts whether we shall not have a worse if we seeke another.

RESOLVED on the question that the Speaker shall leave the chaire and Mr. Whitby shall goe into the Chaire to a Committee to consider of the Remonstrance yesterday intended concerning the safety of the King and Kingdome.

MR. WHITBY in the Chaire at a grand Committee; to Consider of the danger of the King and Kingdome and the meanes of our safety.

1. The two following speeches are omitted in Lowther; but there is another by Elliot. (39)

2. There are three Vaughan's in this Parliament. John Vaughan, Esq., M.P. for Cardigan Borough, Cardigan. Henry Vaughan, Esq., M.P. for Carmarthen Borough, Carmarthen. Richard Vaughan, Esq., M.P. for Merioneth County. members of Parliament, I. 479.

Yesterday was voted Concerning the danger of the Kingdome that these particulars following were the heads:

1. Innovacion of Religion.
2. Innovacion of Governement.
3. The ill successe of all our affaires.
4. The Cause of all these.

NAT.RITCH: would have us to each of these heads to give an instance; and to add to it the decay of shippes, and trade, and of Municions.

ERLE: would have us ad the impoverishing of the Kingdome by losses by Sea, and trade, the losse of Comanders, shippes, ..

PYM: hath heard there are some articles negotiated here by Agents of Ireland which amount to a tolleracion of Religion. That alsoe there are lately diverse Comands given in Ireland to papists; there have bene diverse goods of Enemies staid for satisfaccion of merchants who have had noe satisfaccion out of the same.

1

NAT.RITCH: that another head may be the decay of the King's Revenue.

1. Lowther gives this speech as follows: "Two things to be enquired of ; a negotiation for the toleration of religion in Ireland, which I hear is nearly effected; 2. What is become of the merchants' goods foreigners that hath been stayed in recompense of ours taken, and no recompense returned for the losse of them." (p.39)

SIR R. MANSELL: Neglect of the gard of the coast, if not tymely taken order for, it will be too late; which is of infinite Consequence to the safety and honour of the King and Comonwealth as he will shew.

¹
N. RITCH: for Religion, that it is now in danger; for that papists are too much Countenanced both att home and abroad, in Court and Country; endangered by working of Arminians, which hath passed diverse prelates. That diverse bookes which are in defence of the Orthodoxe Religion are stopped att the presse, and others favouring the opinion of Arminians are printed with authority. Besides Souldiers kept amongst ... that are papists which breedes feare and danger.

SIR THO. HOBBY: There is now an inhibicion of execucion of the lawes against Jesuitts and popish Recusants. There are Comissions to compound with recusants, which Composition is soe favorable as those who are not convicted doe get themselves to be convicted that they may Compound. Lords lieutenants, deputy lieutenants that are papists are reteyned and authorised every day. Would have such Comissioners as take uppon them Comissions against lawe to be questioned and punished. Licences are denyed by Bishopps to able and orthodox Ministers.

1. These two speeches by Riche and Mansell seem to be misplaced. They logically precede Pym's speech. Mass. MS. does give Riche's speech before Pym's, but Mansell's directly after.

MR. WHITTACRES: there are 3 housholdes of papists in Drury lane for one of protestants. Moveth the confluence of papists to the Suburbs of this towne may be another head.

PYM: That the King's answer to a petition att Oxford² was that noe Englishe, Irishe, or Scotch that are papists should serve the Queene; which by the Committee of Religion was found not to be observed, for they found that the Countess of Bucks. is neere the Queene, and she being of the family of those that have greatest favour and power att Court, diverse of most active papists in the Kingdome frequent the Court and grow bold on such dependencies.

SIR JO. HOTHAM¹: That the lord Dunbarr brought 2 letters from the King that there should be noe proceedings against papists and said if those would not satisfy, there should be longer letters for that purpose.

SIR E. COKE: 1.H.5, a petition was presented to the King to pray execution of lawes. 8 of Ecclesiastes, if yee have lawes and doe not execute them, it will embolden offenders. Jo. Wright, and Christofer did confesse that in tyme of Queene Elizabeth they were sent to King of Spain who told them that the Catholiques of England were as deare to him as his Castillians; but he said in 38. the Catholiques fixed on him; but the Wrights said they were firm Englishe papists to assure that King that they would the next tyme provide house for his service.

1. Sir John Hotham, M.P. for Beverley Borough, York. Members of Parliament, I. 479.

2. July, 1625. See C.J., I. 807.

Sir Jo. Savill's Comission is a Comission for tolleracion of Religion.

PHELIPPS: feares that the speciall favour to papists papists hath made that God hath not bene with our armyes or with our Councells.

SIR WENTWORTH: he is greeved that the King's gracious answere att Oxford against Recusants, is noe better kept and observed; whereas king's words given in parliament should be kept inviolably. The Comission granted for compounding Recusants amounts to noe better then a Tolleracion, and this is only on pretence of encreasing the King's Revenue, whereas there might be above 3 tymes the vallue of such Composicions. And there is one who hath 2000 ^{annum,} ~~per~~ hath compounded for about 35 ^{annum} ~~per~~ desires that Comission may be brought into the house.

SIR JA (MES) PARROT : that the lord Wentworth, Sir Jo. Bath, and 2 others, being all papists, have promises to be Captaine and to have Companies.

SIR D. DIGGS: That the forfeitures of Recusants, if the Lawes were there executed, would have paid a greater Army.

A Comittee of 4 or 5 apointed to speake with the Chancellor of Ireland concerning the increase of Recusants in that kingdome.

6 JUNII, 1628.

Afternoone att a Grand Comittee.

1. Sir James Perrott, M.P. for Haversfordwest Borough, Pembroke. Members of Parliament, I. 479.

2. This debate, with variations, is given in Lowther, p. 40.

Concerning our heade of Innovacion of Government.

Complaints of horse to be brought into England from Germany.

Complaints of a Comission in the Crowne office to rayse excises.

Evidences that the Isle of Weight, being but the 8th parte of a sheire, have 1500 Scotch souldiers and there is neither Municion nor forts repaired.

SHERFELD: that the comission for inquiring of extorted fees in all offices fitting to parliament which should doe it, which is an innovacion of government.

STUART : There was a great greevance complayned in Rome¹ that there was a perpetuus dictator who had the comand of all the Bands and Souldiers, for that it was against the Custome; and since the returne from Retz we have had a perpetuus dictator, one and the same Generall of all the forces who had a Comission for that purpose, and for marshall lawe; he conceaves that this tends to an innovacion of government.

SIR E.COKE: In Brittainy, it was held a highe offence to bring in forraine horse.

Concerning the disaster of all our Successes abroad.

That want of due eleccion of Generalls and other officers that are either not sufficient or not faithfull.

1. Sir Francis Stuart, M.P. for Liskead Borough, Cornwall. Members of Parliament, I. 474.

Concerning the decay of trade: the decay of trade by new impositions, not guarding the Narrow Seas; there 248 shippes and diverse Marriners cast away and taken, all shippes being of 100 ton and upwards besides lesser vessels. Pressing of merchant shippes laden and bound in voyages, too frequent embargoes, paying too small freight... Those **marriners** that are prest, come farre from their sheire to Chatham and when they are discharged farre from home without having meanes to returne home.

9. weake Captains and Comanders.

10. want of Chirurgians.

11. fleetes sett out in winter voyages after employment.

12. noe hospitall for sick men.

13. attendance for wages that they grow **deboist**, run to the Enemy.

14. Noe freight paid, whereby they that have shippes have not meanes nor will to repaire their shippes; which alsoe doth make that few men build shippes, and those that bylde, build very ill and unserviceable to avoide being pressed.

7 JUNII, 1628.

Att a grand Comittee: Mr. Whitby...

RESOLVED that it shall be presented in our Remonstrance to the King that we heare of diverse horse that are to be brought into England for the warre, which we conceive to be contrary to the lawes and Custome of England.

1. This is evidently based on a report from the Committee for trade on June 4th. C.J., I. 909; and in Ephem. Parl., 201-3.

- Leves Curae Loquntur,ingentes stupent;small Curattes
preache,great ones are silent.

Ri.Westb...Sir Edw.Trevor,knt...

¹
6 JUNII,1628.

Morley Called into the house because he saith he hath
something to discover of great weight and consequence.That
a Comander of the Isle of Retz did averre that Sir Al.Apsley
did provide victualls that **pastured** 4000 men...

9 JUNII,1628.

RESOLVED on the question,that all grand Comittees (as
that of greevaunces,Religion,trade,Courts of Justice) shall
surcease,it being neere the end of the Sessions.

Comittee for Armes,too morrow in the afternoone.Comittee
for Ordnance and Powder...

Bill of Tonnage and Poundage to be considered too morrow
in the afternoone.

Wednesday morning there shall be a report from the Comit-
tee of trade.

Report Concerning Montague to be heard too morrow.

1. These names and the Latin quotation above seem to have
no connection with the proceedings of Parliament.On the same
page of the manuscript *there is a recipe for a distilled
water;and probably these also were accidentally jotted down
on the paper on which Nicholas took his Parliament notes.

Comittee that noe recusant to be in any place of trust,
to meete too morrow in afternoone.

Report concerning Dr.Cosens¹ to be reported too morrow.

Att a Comittee of the whole house:Mr.Whitby in the
Chaire.

v MR.SELDEN:That the Clerke of the Crowne saith there came
a Bill signed for impositions or excise but it is with the lord
keeper.

2

Speaker in the Chaire.

ORDERED that 4 members of this house...betweene this and
the afternoone,to the lord keeper...had a Bill concerning im-
positions and...

Mr.Whitby in the Chayre.

Concerning not garding Seas.

SIR RO.MANSELL: That the garde of the Coast is totally
neglected:inconveniences if we trade,that our shipps are ta-
ken or burnt:our marriners serve the Enemy:to desire that

1.No such entry in C.J. There is this however,which may have
relation to the same matter."Presentment of Popish Recusants-
To-morrow morning."C.J.,I.910.

2.The C.J.,I.910,has the following which throws some light on
this speech and the following order."Mr.Coventry,Sir D.Diggs,
Mr.Selden,Mr.Price,to move the Lord Keeper,to desire,that,by
his Lordship's means,they may have sight of the bill signed...
concerning impositions".The committee was that for the Decla-
ration or Remonstrance.C.J.,I.910.

order may be taken that the Kingdome and Coast may be garded.
 Were wont to have intelligence for garde of the Narrow Seas:
 the lord Admirall would not suffer in Queen Maryes tyme King
 Philipp to weare a flag:and diverse other testimonies of the
 tendernes of the king's honour in ...

SIR RO.PHELIPPS:wisheth that we had soe warred abroad as
 that we had kept better peace att home on the coast.

ALD (ERMAN) Chethen:That our Marriners will not fight against
 dunkirkers because there is soe good **quarter** betweene our
 Marriners and theirs.

MR.ALFORD:doth say the like of Marriners.

MR.BALL:That those shipps that are set out by the State
 are soe ill sett out or want of Comissions that private letters
 of ~~marque~~, the charge of it is 8 ^{the} to lord admirall.
 Would have libertie for all shipps ^{that} ~~go~~ goe to Sea to take our
 Ennemies without restriction or paying [^] any fees;for such...
 prizes are in Compasse of ...

Decay of shipping and trade and not (garde?) of the Seas
 shall be 3 heads of the (Remonstrance?).

11 JUNII, 1628.

Att a Grand Comittee:Mr.Whitby in the Chaire.

SIR NAT.RICHE'S report concerning the Remonstrance.
 That the grand Comittee,taking into Consideracion the sick
 estate of the Comonwealth,find the heads viz:

- 1.feare of innovacion of Religion.
- 2.feare of innovacion of government.

3. disasters and ill successe of all our desires and accions.
4. weaknes and decay of the forts.
5. want of amunicion, powder, and ordnance and ill ordering thereof.
6. decay of trade.
7. losse of shippes and marriners.
8. not garding the Narrow Seas.
9. the Conferring of soe large power on one man.

Noe execution of the King's answer¹ to the petition att Oxon. The favour that papists find with great persons att Court, by name the Countesse of Buckingham. Their great offices and employments. Their dispensacions by the late easy composicions which amounts to a Tolleracion. Their confluence to this Towne and to the Courts whereby they have opportunity to work their ill ends. Letters to lord Dunbarr, the growth of the Arminian faccion, which are the Jesuits of the protestant Religion: These have ruyned the low Countries, and are the Minions of the Courts, permitting their bookes to be printed, and suppressing all that wryte against them, by colour of the proclamacion which had noe such intent. The discontentancing of orthodox preachers, though conformable men, who are not permitted where preachers are wanting; and though many would pay for it but cannot have it, which shewes an ayme to bring in popery.

4. The dangerous revolt from protestant Religion and the infin-

- 1. Nicholas has drawn a line through this 9th head.

The increase of popery in Ireland.

5. The tyme of this Contenancing of popery is now when Administrationisme spreadeth itself; and when all partes are endeavoring to extirpate the true Religion, which shewes a Co-operation with the accions abroad.

¹
Innovation of government.

^m
Misinformation to the King concerning loanes.

1. The billeting of Soldiers, and of them without any order for their imployment then lodging in all the out portes, they being papists.

2. The taking of tonnage and poundage without an Act of Parliament.

3. bringing in of forraine horse and riders for which neere 40,000^l is issued, when as there would be noe allowance given for garding the Seas.

Comissions read for impositions.

Frequent breaches of parliaments.

Putting forth Justices and officers of Justice out of Comissions.

The conferring of soe much power on one person att this tyme when innovation of government is feared.

1. The preceding are particulars under the general head of Innovations of Religion. They are given slightly different, but nearly the same in substance, in Lowther, p. 44. Particulars for the head, Innovations of Government follow.

Ill successe of accion in the 3. expedicions.

The causes why is the chaise of unfitt Comanders such as were either ignorant or unfaithfull, and able men left out and discontentanced.

Unseasonable setting forth of expedicions.

Want of Councell and Courage in execucion of them.

The ill effect of all these tended to the disfavour of the Nacion.

Losse of Comanders, shippes, and 20,000 marriners.

Expences of about a Million of monny.

The forts out of repaire, want both men and Municions, in the Isle of Weight.

Want of Municions and ill ordered; that there is not above 60 cases of powder in the Tower whereas there ought to be 300 cases. That a great quantity of powder is taken out of the Tower when the King wants it; 860 barrells of powder since 14th of Januarii and solde. That Burlemach had 14,000 for powder...

Decay of trade, and shipps; in which the Comittee desires that in the declaracion there may be a cattalogue sett downe of the losses of all the shipps.

1. Comes under head 4.

3. Comes under head 5.

2. Philip Burlamachi, a secret agent of the government. He was employed on army and diplomatic missions. See Cal. St. P. (Dom.) 1627-8.

4. Heads 6 and 7.

Not garding Seas.

1) the garde appointed for the Seas are but 6 shipps which is too little; that they keepe in harbour and spend victualls; and when they come in any place they oppresse the Subjects by taking their men from them. 8 $\frac{1}{2}$ a letter of marque.

That shipps that have bene prepared for convoe of their goods have bene taken away, and thereby the shipps lost.

Inconveniencies: the King hath lost the Regallity of the Narrow Seas, and his honour, and the whole Kingdome is putt into disorder.

¹
The cause of all these evils and danger to the King and Kingdome is the excessive power in the duke of Buckingham, and the abuse of that power.

SIR M^(ILES) HOBART : that the Comittee did resolve of the Cause of all these mischeifs, who hath bene named by a father of the lawe.
²

STROODE: would have us to proceede soe in these great businesses as to wine freinds ar weaken foes.

CHANCELLOR DUTCHY: the King's hart is as right in Religion as we can wishe, and his Majestie hath said lately, that he will extinguishe both popery and arminianisme and that he will never preferre any that is affected or hath a tainture

1. Head 8.

2. Sir Miles Hobart, M.P. for Marlow Borough, Bucks. Members of Parliament, I. 474.

of popery or Arminianisme.

MR. ALFORD: That the proclamacion for not eating of fleshe in lent, there being a lawe against it in 2.E.6, and penalty, tends to alteration of government; and if the breakers of such proclamacions shall be questioned in the Starr chamber is a short way, and tends much to innovacion of government.

WENTWORTH: That he thinkes and feares the King hath not bene rightly informed Concerning the loanes; but that the same were raised with the liking of all in generall, whereas there was never a greater compuncion of hart in the Subject in any businesses.

SIR HOBBY: That there is not only a proclamacion against eating fleshe but a fee laid for the bonds that every one is to enter into, not to transgresse against it; and therefore would have it put upp to the King as a busines tending to the innovacion of government.

MR. SELDEN: saith that the proclamacion Concerning buildings and for sending men to their houses in the Country, which is a kinde of confinement; he saith that there are some proclamacions that are according to law, but generally proclamacions doe tend to innovacion of government.

By Consent the matter of proclamacions is now waived and thought fitter to be put into the petition of greevances then into this Remonstrance.

CHANCELLOR DUTCHY: That he is comanded by the King to lett us know that the forraine horse are not intended but for for-

raigne service.

LONG: would have the cause of all these evils, the cause of
¹
 many, ~~the cause of many~~, and the cause of all the rest.

CHANCELLOR DUTCHY: The King infinitely desires you will
 att this tyme forbear all personall charges, and will take it
 for a testimony of your affeccion; moderacion hath held upp the
 walls of this house. Lett us now **pray** the King and he as-
 sures us when we meete againe, [we shall] finde a Remedy of all
 that is amisse.

CORITON: The duke hath soe much power, as if he were the Kings
 owne sonne he might be well suspected.

SIR BEN. RUDIER: holdeth the same ground still that he brough
 with him [to] this parliament; he is noe man's advocate; wished
 us to make it appeare if we omitted any thing it was for the
 King's sake, noe man's else; that we might get the King of our
 side. Let us waye the matter home, and the matter will name the ~~pers~~
 person lowde enoughe; our end is reformation and that will doe
 it. We have only this one circumstance to gratify his Majestie,
 not to touch on persons. The busines is of such nature as that
 it must and sleepe. When the King considers the Coun-
 cells which he followed, were so pernicious to him; he is wise
 and will consider the persons that he gave it. Would have us to
 forbear to nomynate any person, least we distrust the King

1. Robert Long, M.P. for Devizes Borough, Wilts. Members of Parli-
 ament, I. 478; or Walter Longe, Bath, Somerset. ibid., I. 477.

att first before he lookes into the petition, but would not have us to doe it out of feare, but out of love, affeccion, and duty to the King.

MR. PYM: gave his voice the last parliament that the duke of Buckingham is the cause of all these greivances, and hath seene nothing ever since to alter his opinion.

SIR H. MARTIN: Since we know the King's desire, That we should not touch on any person, and being now to goe to his Majestie, would have us to proceede soe as may make the better way to our ends and desires.

SIR E. COKE: he depends on noe man but the King; he doth mallice noe man; he frees the King who heares with others' eares.

SELDEN: whether the duke be the cause of all these...

SIR N. RITCH: That it is the most dangerous thing that is in the Kingdome, that one man should have soe much power, and it hath ever bene fatale to the King, Kingdome, or such person, to have such a boundles power; and noe freind would wishe him to contynue it for it drawes on him Suspicion of his integrity, and puts much envy on him; besides, since the last parliament, he hath had much addicion of power as Generall of all forces; and hath placed his kindred and freinds in greatest place in the State, which doth alsoe drawe a jealousy on him.

PHELLIPPS: Desires that we may have no disunanimity of (opinion) amongst ourselves, or distrust with the King; that

We should present(as Mr.Littleton saith) that we conceive¹
the cause of all these disorders is the great power that is
in the Duke's hands.

RESOLVED on question,that the excessive power of the Duke
of Buckingham and the abuse of that power are the principall
cause of these evils and dangers to the King and Kingdome.²
This is to be put into the Remonstrance.

wer³ That shipps have bene in pay in porte,not gone on any
service.That shipps att Antwerp...12 Eng.shipps,8 Hollander,
6 Engl.

Noe Convoe for shipps...The dreadnought that carried over
the lord Carlile...5 Englische shipps carried...

Unnecessary presses att Bristoll.

The number of shipps:Comissions

Wariners will not fight.

Noe freight paid;decay of the Navy.

1.St. Espritt	600.
2.St.Claude	300.
3.St.James	300.
4.St. Georg	300.

1.Evidently ther is a speech omitted.

2.Rushworth(p.617) gives this resolution on the 13th;it was on
the 11th however.C.J.,I.911.

3.The remonstrance may be found in Ephem.Parl.,206-214,and in
Rushworth,I.619-626.

5. St. Mark	400.
6. St. Anne	350.
7. St. Anthony	130.
8. Fortune	120.
9. Mary Rose	100.
	1

1. These are ships which had been captured or lost. Some of them were later recovered. x